

Extra Ordinary Part - IV / 1991

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Separate paging is given to this Part in order that it may be filed as a separate Compilation.

PART IV

Acts of the Gujarat Legislature and Ordinances promulgated and Regulations made by the Governor.

The following Act of the Gujarat Legislature having been assented to by the Governor on the 20th February, 1991 is hereby published for general information.

R. M. MEHTA,
Secretary to the Government of Gujarat,
Legal Department.

GUJARAT ACT NO. 1 OF 1991.

(First published, after having received the assent of the Governor in the "Gujarat Government Gazette" on the 21st February, 1991).

An act further to amend the Bombay Motor Vehicles (Taxation of Passengers) Act 1958.

It is hereby enacted in the Forty-second Year of the Republic of India as follows:—

1. (1) This Act may be called the Bombay Motor Vehicles (Taxation of Passengers) (Gujarat Amendment) Act, 1991.
- (2) It shall be deemed to have come into force on the 1st November, 1990.

Amendment
of section
3 of Bom.
LXVII of
1958.

2. In the Bombay Motor Vehicles (Taxation of Passengers) Act, 1958 (here- Bom. LXVII
inafter referred to as "the principal Act"), in section 3, in sub-section (1), for the of
words "twenty five per cent", the words "seventeen and one-half per cent." shall 1958.
be substituted.

Repeal
and
savings.

3. (1) The Bombay Motor Vehicles (Taxation of Passengers) (Gujarat Amend- Guj.
ment) Ordinance, 1990 is hereby repealed. Ord.
6 of
1990.

(2) Notwithstanding such repeal, anything done or any action taken under the
principal Act as amended by the said Ordinance shall be deemed to have been
done or taken under the principal Act as amended by this Act.



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P A R T I V

**Acts of the Gujarat Legislature and Ordinances promulgated and
Regulations made by the Governor**

The following Act of the Gujarat Legislature having been assented to by the Governor on the 20th February, 1991 is hereby published for general information.

R. M. MEHTA,
Secretary to the Government of Gujarat,
Legal Department.

GUJARAT ACT NO. 2 OF 1991.

(First published, after having received the assent of the Governor in the "Gujarat Government Gazette" on the 21st February, 1991).

An act further to amend the Gujarat Legislative Assembly (Speaker and Deputy Speaker) Salaries and Allowances Act, 1960.

It is hereby enacted in the Forty-second Year of the Republic of India as follows :—

1. (1) This Act may be called the Gujarat Legislative Assembly (Speaker and Deputy Speaker) Salaries and Allowances (Amendment) Act, 1991.

(2) It shall be deemed to have come into force on the 24th December, 1990.

Short
title
and
commence-
ment.

Amendment
of section
10 of
Guj. III of
1960.

2. In the Gujarat Legislative Assembly (Speaker and Deputy Speaker) Salaries and Allowances Act, 1960 (hereinafter referred to as "the principal Act"), in section 10, for the letters and figures "Rs. 600", the letters and figures "Rs. 1800" shall be substituted.

Deletion
of section
11 of
Guj. III of
1960.

3. In the principal Act, section 11 shall be deleted.

Amendment
of section
12 of
Guj. III of
1960.

4. In the principal Act, in section 12,—

(1) the words and figures "subject to the provisions of section 11" shall be deleted;

(2) for the marginal note, the following marginal note shall be substituted, namely :—

"Travelling and Daily Allowances to Deputy Speaker."

Amend-
ment of
section
12A of
Guj. III of
1960.

5. In the principal Act, in section 12A,—

(1) in sub-section (1), for the portion beginning with the words "where he ordinarily resides" and ending with the words "as his residence", the words "of residence at Gandhinagar" shall be substituted;

(2) in sub-section (2), the proviso shall be deleted.

Insertion
of new
sections
12B, 12C,
12D, 12E,
12F and
12G in
Guj. III of
1960.

6. In the principal Act, after section 12A, the following sections shall be inserted, namely :—

Residence of
Deputy
Speaker.

"12B. (1) The Deputy Speaker shall be entitled, without payment of rent, to the use of a furnished residence in Gandhinagar throughout his term of office and for a period of fifteen days immediately thereafter or in lieu of such residence a house allowance at the rate of Rs. 250/- per month.

(2) No charge shall fall on the Deputy Speaker personally in respect of the maintenance of any residence provided under this section.

(3) The expenditure on furnishing the residence provided under this section shall be on such scale as may be determined by rules or orders.

Conve-
yance for
Deputy
Speaker.

12C. (1) The State Government may, from time to time, for the use of the Deputy Speaker purchase and provide a motor car and other suitable conveyance, upon such conditions as regards their maintenance and repairs as may be determined by rules or orders.

(2) Where, under sub-section (1), the State Government has provided for the use of the Deputy Speaker a motor car or other conveyance it shall also provide to him, free of charge, the services of a driver for such car or conveyance.

(3) There shall also be paid to the Deputy Speaker a conveyance allowance at the rate of Rs. 500/- per month.

12D. Subject to any rules or orders made in this behalf by the State Government,—

(a) the Deputy Speaker shall be entitled to travelling allowance for himself and the members of his family and for the transport of his and his family's effects in respect of the journey to Gandhinagar from his usual place of residence outside Gandhinagar for assuming office;

(b) the Deputy Speaker and members of his family shall be entitled to travelling allowance for himself or themselves and for the transport of effects of the Deputy Speaker or, as the case may be, his family in respect of the journey from Gandhinagar to his usual place of residence outside Gandhinagar on the Deputy Speaker ceasing to hold his office.

Explanation.—For the purposes of this section, the expression “a member of the family” shall have the same meaning as assigned to it in section 7 and the word “family” shall be construed accordingly.

12E. Subject to rules or orders, the Deputy Speaker and the members of the family of the Deputy Speaker, who are residing with and dependent on him, shall be entitled, free of charge, to accommodation in hospitals maintained by the State Government and to medical attendance and treatment.

Explanation.—For the purposes of this section, the expression “a member of the family” shall have the same meaning as assigned to it in section 7 and the word “family” shall be construed accordingly.

12F. The Deputy Speaker shall not practise any profession or engage in any trade or undertake for remuneration any employment other than his duties as Deputy Speaker.

12G. Notwithstanding anything contained in any law for the time being in force determining the salaries and allowances of the members of the Assembly, the Deputy Speaker shall not be entitled to receive any salary or allowances under such law, although such Deputy Speaker is a member of the Assembly.”.

Guj.
Ord.
5 of
1990.

7. (1) The Gujarat Legislative Assembly (Speaker and Deputy Speaker) Salaries and Allowances (Amendment) Ordinance, 1990 is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act as amended by the said Ordinance shall be deemed to have been done or taken under the principal Act as amended by this Act.

Travelling allowance on assumption of office by Deputy Speaker and on ceasing to be Deputy Speaker.

Medical attendance.

Deputy Speaker not to practise any profession or engage in any trade.

Deputy Speaker not entitled to salary and allowances as member of the State Legislature.

Repeal and savings.



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PART IV

Acts of the Gujarat Legislature and Ordinances promulgated and Regulations made by the Governor.

The following Act of the Gujarat Legislature having been assented to by the Governor on the 5th March, 1991 is hereby published for general information.

R. M. MEHTA,
 Secretary to the Government of Gujarat,
 Legal Department.

GUJARAT ACT NO. 3 OF 1991.

(First published, after having received the assent of the Governor in the "Gujarat Government Gazette" on the 6th March, 1991).

AN ACT

further to amend the Bhavnagar University Act, 1978.

It is hereby enacted in the Forty-second Year of the Republic of India as follows:—

1. This Act may be called the Bhavnagar University (Amendment) Act, 1991. Short title.
2. In the Bhavnagar University Act, 1978 (hereinafter referred to as "the principal Act"), in section 2, in clause (3), for the words "leading to a degree", the words "leading to a diploma or degree" shall be substituted. Amendment of section 2 of Guj. 26 of 1978.

Guj. 26 of 1978.

Amendment
of section
10 of Guj.
26 of 1978.

3. In the principal Act, in section 10, in sub-section (6), after the words "in absence of the Pro-Vice-Chancellor", the words "one of the Deans or" shall be inserted.

Amendment
of section
20 of Guj.
26 of 1978.

4. In the principal Act, in section 20, in sub-section (1),—

(1) after clause (vi), the following clause shall be inserted, namely:—

"(vii) two principals of colleges to be nominated by the Vice-Chancellor by rotation, in the manner specified by the Statutes";

(2) in the proviso,—

(a) for the brackets and figure "(vi)", the brackets and figure "(vii)" shall be substituted;

(b) for the words "or, as the case may be, a Head of the recognised institutions", the words, "a Head of the recognised institution or, as the case may be, a Principal of a College" shall be substituted.

Amendment
of section
30 of Guj.
26 of 1978.

5. In the principal Act, in section 30, in clause (v), for the words "specialised studies", the words "specialised studies, Post-graduate centres in affiliated colleges" shall be substituted.

Substitution
of section
43 of Guj.
26 of 1978.

6. In the principal Act, for section 43, the following section shall be substituted, namely:—

Post-graduate instruction, teaching and training.

"43. Within the University area all post-graduate instruction, teaching and training in such subjects as may be prescribed by the Statutes shall be conducted by the University or subject to control of the University by such affiliated colleges or institutions as may be prescribed by the Statutes."



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P A R T I V

Acts of the Gujarat Legislature and Ordinances promulgated and Regulations made by the Governor

The following Act of the Gujarat Legislature having been assented to by the
Governor on the 5th March, 1991 is hereby published for general information.

R. M. MEHTA,
Secretary to the Government of Gujarat,
Legal Department.

GUJARAT ACT NO. 4 OF 1991.

(First published, after having received the assent of the Governor in the
"Gujarat Government Gazette" on the 6th March, 1991).

AN ACT

further to amend the Bombay Stamp Act, 1958.

It is hereby enacted in the Forty-second Year of the Republic of India
as follows :—

1. (1) This Act may be called the Bombay Stamp (Gujarat Amend-
ment) Act, 1991.

Bom. LX
of
1958.

(2) It shall be deemed to have come into force on the 1st May, 1984.

2. In the Bombay Stamp Act, 1958 (hereinafter referred to as "the principal
Act"), in section 32A, in sub-section (3), for the words "which shall not
be less than such difference and not more than twice the amount of such
difference", the words "of two hundred and fifty rupees" shall be
substituted.

Short
title
and
commence-
ment.

Amend-
ment of
section,
32A of
Bom. LX
1958

Amend-
ment of
section
32B of
Bom. LX of
1958.

3. In the principal Act, in section 32B, in sub-section (1), for the words "seventy five per cent.", the words "twenty-five per cent" shall be substituted.



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PART VI

Acts of Parliament and Ordinances promulgated by the President.

LEGAL DEPARTMENT

Sachivalaya, Gandhinagar, 21st March, 1991.

No. RP/12/91/21-90/Research.—The following Act of Parliament is re-
published for general information :—

GOVERNMENT OF INDIA

MINISTRY OF LAW AND JUSTICE

(LEGISLATIVE DEPARTMENT)

New Delhi, the 11th September, 1990/Bhadra 20, 1912 (Saka).

The following Act of Parliament received the assent of the President on the
10th September, 1990 and is hereby published for general information :

5-1

VI—Ex.—5-1

**THE ARMED FORCES (JAMMU AND KASHMIR)
SPECIAL POWERS ACT, 1990.**

[Act No. 21 of 1990]

[10th September, 1990].

AN ACT

*to enable certain special powers to be conferred upon members of the
armed forces in the disturbed areas in the State of
Jammu and Kashmir.*

BE it enacted by Parliament in the Forty-first Year of the Republic of India
as follows :—

Short
title ||
extent
and
com-
mence-
ment.

1. (1) This Act may be called the Armed Forces (Jammu and Kashmir)
Special Powers Act, 1990.

(2) It extends to the whole of the State of Jammu and Kashmir.

(3) It shall be deemed to have come into force on the 5th day of July, 1990.

Defini-
tions.

2. In this Act, unless the context otherwise requires,—

(a) “armed forces” means the military forces and the air forces operating
as land forces and includes any other armed forces of the Union so operating;

(b) “disturbed area” means an area which is for the time being declared by
notification under section 3 to be a disturbed area;

(c) all other words and expressions used herein, but not defined and
defined in the Air Force Act, 1950, or the Army Act, 1950, shall have the ^{45 of 1950.}
meanings respectively assigned to them in those Acts. _{46 of 1950.}

Power to
declare
areas to be
disturbed
areas.

3. If, in relation to the State of Jammu and Kashmir, the Governor of that
State or the Central Government, is of opinion that the whole or any part of
the State is in such a disturbed and dangerous condition that the use of armed
forces in aid of the civil power is necessary to prevent—

(a) activities involving terrorist acts directed towards overawing the
Government as by law established or striking terror in the people or any
section of the people or alienating any section of the people or adversely
affecting the harmony amongst different sections of the people;

(b) activities directed towards disclaiming, questioning or disrupting the
sovereignty and territorial integrity of India or bringing about cession of a
part of the territory of India or secession of a part of the territory of India
from the Union or causing insult to the Indian National Flag, the Indian
National Anthem and the Constitution of India,

the Governor of the State or the Central Government, may, by notification in
the Official Gazette, declare the whole or any part of the State to be a disturbed
area.

Explanation.—In this section, "terrorist act" has the same meaning as in *Explanation* to article 248 of the Constitution of India as applicable to the State of Jammu and Kashmir.

4. Any commissioned officer, warrant officer, non-commissioned officer or any other person of equivalent rank in the armed forces may, in a disturbed areas,—
Special powers of the armed Forces.

(a) if he is of opinion that it is necessary so to do for the maintenance of public order, after giving such due warning as he may consider necessary, fire upon or otherwise use force, even to the causing of death, against any person who is acting in contravention of any law or order for the time being in force in the disturbed area prohibiting the assembly of five or more persons or the carrying of weapons or of things capable of being used as weapons or of fire-arms, ammunition or explosive substances;

(b) if he is of opinion that it is necessary so to do, destroy any arms dump, prepared or fortified position or shelter from which armed attacks are made or are likely to be made or are attempted to be made, or any structure used as a training camp for armed volunteers or utilised as a hide-out by armed gangs or absconders wanted for any offence;

(c) arrest, without warrant, any person who has committed a cognizable offence or against whom a reasonable suspicion exists that he has committed or is about to commit a cognizable offence and may use such force as may be necessary to effect the arrest;

(d) enter and search, without warrant, any premises to make any such arrest as aforesaid or to recover any person believed to be wrongfully restrained or confined or any property reasonably suspected to be stolen property or any arms, ammunition or explosive substances believed to be unlawfully kept in such premises, and may for that purpose use such force as may be necessary, and seize any such property, arms, ammunition or explosive substances;

(e) Stop, search and seize any vehicle or vessel reasonably suspected to be carrying any person who is a proclaimed offender, or any person who has committed a non-cognizable offence, or against whom a reasonable suspicion exists that he has committed or is about to commit a non-cognizable offence, or any person who is carrying any arms, ammunition or explosive substance believed to be unlawfully held by him, and may, for that purpose, use such force as may be necessary to effect such stoppage, search or seizure, as the case may be.

5. Every person making a search under this Act shall have the power to break open the lock of any door, almirah, safe, box, cupboard, drawer, package or other thing, if the key thereof is withheld.

Power of search to include powers to break open locks, etc.

Arrested persons and seized property to be made over to the police.

Protection of persons acting in good faith under this Act.

Repeal and saving.

6. Any person arrested and taken into custody under this Act and every property, arms, ammunition or explosive substance or any vehicle or vessel seized under this Act, shall be made over to the officer-in-charge of the nearest police station with the least possible delay, together with a report of the circumstances occasioning the arrest, or as the case may be, occasioning the seizure of such property, arms, ammunition or explosive substance or any vehicle or vessel, as the case may be.

7. No prosecution, suit or other legal proceeding shall be instituted, except with the previous sanction of the Central Government, against any person in respect of anything done or purported to be done in exercise of the powers conferred by this Act.

8. (1) The Armed Forces (Jammu and Kashmir) Special Powers Ordinance, 1990, is hereby repealed.

8 of 1990.

(2) Notwithstanding such repeal, anything done or any action taken under the said Ordinance shall be deemed to have been done or taken under the corresponding provisions of this Act.

Sd/—

V. S. RAMA DEVI,
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

B. K. SHAH,
Secretary to Government.



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P A R T I V

**Acts of the Gujarat Legislature and Ordinances promulgated and
Regulations made by the Governor.**

The following Act of the Gujarat Legislature having been assented to by the
President on the 26th March, 1991 is hereby published for general information.

R. M. MEHTA,
Secretary to the Government of Gujarat,
Legal Department.

GUJARAT ACT NO. 6 OF 1991.

(First published, after having received the assent of the President in the "*Gujarat
Government Gazette*" on the 27th March, 1991)

AN ACT

*further to amend the Bombay Rents, Hotel and Lodging House Rates Control
Act, 1947.*

It is hereby enacted in the Forty-second Year of the Republic of India as
follows :—

1. This Act may be called the Bombay Rents, Hotel and Lodging House Rates Control (Gujarat Amendment) Act, 1991. **Short title.**

Amend-
ment of
section 3
of Bom.
LVII of
1947.

2. In the Bombay Rents, Hotel and Lodging House Rates Control Act, 1947, Bom. in section 3, in sub-section (2), for the words, figures and letters "the 31st day of March, 1991", the words, figures and letters "the 31st day of March, 2001" shall be substituted. LVII of 1947.



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P A R T I V

**Acts of the Gujarat Legislature and Ordinances promulgated and
 Regulations made by the Governor.**

The following Act of the Gujarat Legislature, having been assented to by the Governor on the 28th March, 1991 is hereby published for general information.

R. M. MEHTA,
 Secretary to the Government of Gujarat,
 Legal Department.

GUJARAT ACT NO. 7 OF 1991.

(First published, after having received the assent of the Governor in the "Gujarat Government Gazette" on the 30th March, 1991).

AN ACT

further to amend the Bombay Electricity Duty Act, 1958.

It is hereby enacted in the Forty-second Year of the Republic of India as follows :—

1. (1) This Act may be called the Bombay Electricity Duty (Gujarat Amendment) Act, 1991.

(2) It shall come into force on the 1st April, 1991.

Short
 title and
 commencement.

Amendment
of section 2
of Bom. XL
of 1958.

2. In the Bombay Electricity Duty Act, 1958 (hereinafter referred to as "the principal Act"), in section 2,—

Bom. XL of
1958.

(1) in clause (bb),—

(a) in sub-clauses (i) and (ii).—

(i) the brackets and words "(other than eatables or drinks)" shall be deleted;

(ii) for the words "but does not include a service undertaking", the following shall be substituted, namely :—

"but does not include—

(A) a service undertaking; and

(B) an undertaking which manufactures or produces any kind of food or drinks or both meant ordinarily for consumption on the premises of the undertaking";

(b) the existing *Explanation* shall be numbered as *Explanation 2*, and before the *Explanation 2* as so numbered, the following *Explanation* shall be inserted as *Explanation 1*, namely :—

"*Explanation 1*.—For the purpose of item (B) of this clause, "premises of the undertaking" includes all premises which are intended for being used for consumption of food or drinks or both";

(c) in *Explanation 2* as so numbered, in clause (a), in sub-clause (i), the brackets and words "(other than eatables or drinks)" shall be deleted;

(2) in clause (ee), items (iii) and (iv) shall be deleted.

Amendment
of Schedule
I to Bom.
XL of 1958.

3. In the principal Act, in Schedule I, in Part I, in item (4), sub-item (a) shall be deleted.

Amendment
of Schedule
II to Bom.
XL of 1958.

4. In the principal Act, in Schedule II, in Part I, in item (4), sub-item (a) shall be deleted.



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P A R T IV

**Acts of the Gujarat Legislature and Ordinances promulgated and
Regulations made by the Governor.**

The following Act of the Gujarat Legislature, having been assented to by the
Governor on the 28th March, 1991 is hereby published for general information.

R. M. MEHTA,
Secretary to the Government of Gujarat,
Legal Department.

GUJARAT ACT NO. 8 OF 1991.

(First published, after having received the assent of the Governor in the
"Gujarat Government Gazette" on the 30th March, 1991).

AN ACT

*further to amend the Gujarat Tax on Luxuries (Hotels and Lodging Houses)
Act, 1977.*

It is hereby enacted in the Forty-second Year of the Republic of India
as follows :—

1. (1) This Act may be called the Gujarat Tax on Luxuries (Hotels
and Lodging Houses) (Amendment) Act, 1991.

(2) It shall come into force on the 1st April, 1991.

Short
title and
commence-
ment.

Amendment
of section
8 of Guj.
24 of 1977.

2. In the Gujarat Tax on Luxuries (Hotels and Lodging Houses) Act, 1977, in section 3, in sub-section (1), for clauses (a), (b) and (c), the following clauses shall be substituted, namely :—

Guj.
24 of
1977.

“(a) Where the charges for lodging are not more than fifty rupees per day per person.

Nil.

(b) Where the charges for lodging are more than fifty rupees but not more than one hundred rupees per day per person.

10 per cent. of such charges in excess of Rs. 50 per person per day.

(c) Where the charges for lodging are more than one hundred rupees but not more than three hundred rupees per day per person.

Rs. 5 plus 15 per cent. of such charges in excess of Rs. 100 per person per day.

(d) Where the charges for lodging are more than three hundred rupees per day per person.

Rs. 35 plus 20 per cent. of such charges in excess of Rs. 300 per person per day.”



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P A R T I V

**Acts of the Gujarat Legislature and Ordinances promulgated and
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The following Act of the Gujarat Legislature, having been assented to by the Governor on the 28th March, 1991 is hereby published for general information.

R. M. MEHTA,
 Secretary to the Government of Gujarat,
 Legal Department.

GUJARAT ACT NO. 9 OF 1991.

(First published, after having received the assent of the Governor in the "Gujarat Government Gazette" on the 30th March, 1991).

AN ACT

further to amend the Gujarat Sales Tax Act, 1969.

It is hereby enacted in the Forty-second Year of the Republic of India as follows :—

1. (1) This Act may be called the Gujarat Sales Tax (Amendment) Act, 1991.

(2) It shall come into force on the 1st April, 1991.

2. In the Gujarat Sales Tax Act, 1969 (hereinafter referred to as "the principal Act"), in section 10A, in sub-section (1), for the words "any year", the words, figures and letters "in the year commencing on the 1st April, 1990 and every year thereafter" shall be substituted.

Short title
and
commen-
cement.

Amend-
ment of
section 10A
of Guj. 1
of 1970.

Guj. 1. of
1970.

Amendment of
Schedule
II Part-A
to Gaj. 1
of 1970.

3. In the principal Act, in Schedule II, in Part A,—

(1) in entry 10, in columns 3 and 4, for the words "Seven paise in the rupee", the words "Ten paise in the rupee" shall be substituted;

(2) in entry 102, in columns 3 and 4, for the words "Ten paise in the rupee", the words "Fifteen paise in the rupee" shall be substituted



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PART IV

**Acts of the Gujarat Legislature and Ordinances promulgated and
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The following Act of the Gujarat Legislature, having been assented to by the Governor on the 28th March, 1991 is hereby published for general information.

R. M. MEHTA,

Secretary to the Government of Gujarat;
 Legal Department.

GUJARAT ACT NO. 10 OF 1991.

(First published, after having received the assent of the Governor in the "Gujarat Government Gazette" on the 30th March, 1991).

AN ACT

further to amend the Bombay Motor Vehicles Tax Act, 1958.

It is hereby enacted in the Forty-second Year of the Republic of India as follows :—

1. (1) This Act may be called the Bombay Motor Vehicles Tax (Gujarat Amendment) Act, 1991. Short title and comment.
- (2) It shall come into force on the 1st April, 1991.

Amendment of section 3 of Bom. LXV of 1958. 2. In the Bombay Motor Vehicles Tax Act, 1958 (hereinafter referred to as Bom. LXV of 1958. "the principal Act"), in section 2,—

(1) in clause (5), the following shall be added at the end, namely :—

"or, as the case may be, the Motor Vehicles Act, 1988.";

59 of 1988.

(2) in clause (10), for the words and figures "the Motor Vehicles Act, 1939", the words and figures "the Motor Vehicles Act, 1988" shall be substituted.

IV of 1939. 59 of 1988.

Amendment of section 3 of Bom. LXV of 1958.

3. In the principal Act, in section 3,—

(1) in sub-section (1), in the first proviso,—

(a) for the words "in the First Schedule", the words, figure and letter "in section 3A or the First Schedule" shall be substituted;

(b) for the words and figures "the Motor Vehicles Act, 1939", the words and figures "the Motor Vehicles Act, 1988" shall be substituted;

IV of 1939. 59 of 1988.

(2) the following sub-section shall be added at the end, namely :—

"(3) No tax shall be leviable under sub-section (1) on motor vehicles on which tax is leviable under sub-section (1) of section 3A."

Substitution of section 3A of Bom. LXV of 1958. 4. In the principal Act, for section 3A, the following section shall be substituted, namely :—

Levy and payment of tax on certain omnibuses.

"3A. (1) On and from the 1st day of April, 1991, there shall be levied and collected on all omnibuses which are used or kept for use in the State exclusively as contract carriages (hereinafter in this section and sub-section (1A) of section 4 referred to as "the designated omnibuses") a tax at the rates specified in the table below :—

TABLE

Description of designated omnibuses	Rate of tax
1	2
1. Ordinary designated omnibuses	Annual rate of Rs. 1,800 per passenger permitted to be carried.
2. Luxury or tourist designated omnibuses	Annual rate of Rs. 2,700 per passenger permitted to be carried:

Provided that in the case of the designated omnibuses used solely for the purpose of transporting students of educational institutions in the State in connection with any of the activities of such educational institutions a tax shall be levied and collected under sub-section (1) of section 3, and not under this sub-section.

(2) (a) The tax leviable under sub-section (1) shall be paid in advance by every registered owner or any person having possession or control of the designated omnibuses either annually at the annual rate specified in the Table appearing in sub-section (1) or in monthly instalments of one-twelfth of the annual rate.

(b) (i) The annual payment of tax shall be made at any time before the beginning of the year to which the tax relates.

(ii) The payment of monthly instalment of tax shall be made before the beginning of each month to which the monthly instalment of the tax relates.

(3) Notwithstanding anything contained in sub-section (1),—

(a) the amount of tax leviable in respect of the designated omnibus brought for use in the State for a temporary period not exceeding seven days shall be Rs. 72 per passenger permitted to be carried if it is an ordinary designated omnibus and Rs. 108 per passenger permitted to be carried if it is a luxury or tourist designated omnibus;

(b) where such designated omnibus is to be used or kept for use in the State for a period exceeding seven days but not exceeding one year, the tax shall be leviable on such vehicle at the rate of one-twelfth of the annual rate of tax for each month or part thereof;

(c) the tax leviable under this sub-section shall be paid within such period and in such manner as may be prescribed.

(4) In calculating the amount of tax due under this section the fraction of a rupee less than fifty paise shall be taken as fifty paise, and the fraction of a rupee exceeding fifty paise shall be taken as a rupee.

(5) Where the registered owner or any person having possession or control of an omnibus who has paid tax under this section proves to the satisfaction of the Taxation Authority that the designated omnibus in respect of which the tax has been paid, has not been used for a continuous period of not less than two months, he shall be entitled to the refund of an amount

equal to one-twelfth of the annual rate of the tax paid in respect of such omnibus for each complete month of the period for which the tax has been paid.

(6) Except as otherwise provided in sub-sections (2), (3), (4) and (5), the provisions of this Act and the rules made thereunder shall, so far as may be, apply in relation to the tax leviable under sub-section (1) as they apply in relation to the tax leviable under sub-section (1) of section 3."

Amendment
of section 4
of Bom. LXV
of 1958.

5. In the principal Act, in section 4,

(1) in sub-section (1A), in clause (a), for the words "a transport vehicle", the words "a transport vehicle not being the designated omnibus" shall be substituted;

(2) for the marginal note, the following marginal note shall be substituted, namely:—

"Payment of tax levied under section 3."

Amendment
of section 6
of Bom. LXV
of 1958.

6. In the principal Act, in section 6, in sub-section (3), for the words and figures "Chapter VIII of the Motor Vehicles Act, 1939", the words and figures IV of 1939, "Chapter XI of the Motor Vehicles Act, 1988" shall be substituted. 59 of 1988,

Amendment
of section 23
of Bom. LXV
of 1958.

7. In the principal Act, in section 23, in sub-section (2), for clause (b), the following clause shall be substituted, namely:—

"(b) to prescribe the period within which and the manner in which the tax under sub-section (3) of section 3A and under sub-section (1) of section 4 shall be paid;"

Amendment
of First
Schedule
to Bom.
LXV of
1958.

8. In the principal Act, in the First Schedule, in Part I, under the heading "A. Motor vehicles fitted solely with pneumatic tyres", in Explanation II, for the words, brackets and figures "in the proviso to sub-section (1) of section 24 of the Motor Vehicles Act, 1939", the words, brackets and figures IV of 1939, "in the proviso to sub-section (1) of section 41 of the Motor Vehicles Act, 1988" 59 of 1988, shall be substituted.

Amendment
of Second
Schedule
to Bom.
LXV of
1958.

9. In the principal Act, in the Second Schedule, in Part I, under the heading "A. Motor vehicles fitted solely with pneumatic tyres-", in Explanation II, for the words, brackets and figures "in the proviso to sub-section (1) of section 24 of the Motor Vehicles Act, 1939", the words, brackets and figures IV of 1939, "in the proviso to sub-section (1) of section 41 of the Motor Vehicles Act, 1988" 59 of 1988, shall be substituted.

Amendment
of Third
Schedule
to Bom. LXV
of 1958.

10. In the principal Act, in the Third Schedule, in Part I, under the heading "A. Motor vehicles fitted solely with pneumatic tyres-", in Explanation II, for the words, brackets and figures "in the proviso to sub-section (1) of section 24 of the Motor Vehicles Act, 1939", the words, brackets and figures IV of 1939, "in the proviso to sub-section (1) of section 41 of the Motor Vehicles Act, 1988" 59 of 1988, shall be substituted.



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Separate paging is given to this Part in order that it
 may be filed as a separate compilation.

PART IV

**Acts of the Gujarat Legislature and Ordinances promulgated and
 Regulations made by the Governor.**

The following Act of the Gujarat Legislature, having been assented to by the
 Governor on the 28th March, 1991 is hereby published for general information.

R. M. MEHTA,
 Secretary to the Government of Gujarat,
 Legal Department.

GUJARAT ACT NO. 11 OF 1991.

(First published, after having received the assent of the Governor in the
 "Gujarat Government Gazette" on the 30th March, 1991).

AN ACT

*to authorise payment and appropriation of certain sums from and out of the
 Consolidated Fund of the State of Gujarat for the services of the financial year
 ending on the thirty-first day of March, 1992.*

It is hereby enacted in the Forty-second Year of the Republic of India as
 follows:—

1. This Act may be called the Gujarat Appropriation Act, 1991.

Short title

Withdrawal
of Rs. 67,26,
95,30,000
from
and out of
the Consoli-
dated Fund
of the State
of Gujarat
for the
financial year
1991-92.

2. From and out of the Consolidated Fund of the State of Gujarat, there may be withdrawn sums not exceeding those specified in column 3 of the Schedule amounting in the aggregate to the sum of six thousand seven hundreded twenty-six crores, ninety-five lakhs, thirty thousand rupees towards defraying the several charges which will come in course of payment during the financial year 1991-1992, in respect of the services and purposes specified in column 2 of the Schedule.

Appropri-
ation.

3. The sums authorised to be paid and applied from and out of the Consol-
dated Fund of the State of Gujarat by this Act shall be appropriated for the
services and purposes expressed in the Schedule in relation to the said year.

THE SCHEDULE

(See sections 2 and 3)

No. of Vote/ Appropriation.	Services and purposes	Sums not exceeding		
		Voted	Charged on the Consolidated Fund	Total
1	2	3	4	5
		Rs.	Rs.	Rs.
1.	Agriculture, Co-operation and Rural Development Department	Revenue 1,70,69,000	..	1,70,69,000
2.	Agriculture	Revenue 1,98,53,83,000	..	1,98,53,83,000
		Capital 30,05,00,000	..	30,05,00,000
3.	Minor Irrigation, Soil Conservation and Area Development	Revenue 31,43,77,000	..	31,43,77,000
		Capital 58,00,000	..	58,00,000
4.	Animal Husbandry and Dairy Development	Revenue 22,69,06,000	..	22,69,06,000
		Capital 2,15,000	..	2,15,000
5.	Fisheries	Revenue 11,72,44,000	..	11,72,44,000
		Capital 2,09,75,000	..	2,09,75,000
6.	Co-operation	Revenue 72,93,21,000	..	72,93,21,000
		Capital 7,08,28,000	..	7,08,28,000
7.	Other Expenditure pertaining to Agriculture, Co-operation and Rural Development Department	Capital 69,15,000	..	69,15,000
8.	Education Department	Revenue 86,15,000	..	86,15,000
9.	Education	Revenue 9,59,16,27,000	23,38,40,000	9,82,54,67,000
		Capital 17,00,000	..	17,00,000
10.	Other Expenditure pertaining to Education Department	Revenue 3,49,90,000	..	3,49,90,000
		Capital 10,23,25,000	..	10,23,25,000

No. of Vote/ Appropriation.	Services and purposes	Sums not exceeding		
		Voted	Charged on the Consolidated Fund	Total
1	2	3		
		Rs.	Rs.	Rs.
11.	Energy and Petro-Chemicals Department Revenue	27,58,000	..	27,58,000
12.	Tax collection Charges (Energy and Petro-Chemicals Department) Revenue	1,84,60,000	..	1,84,60,000
13.	Energy Projects Revenue	57,43,00,000	..	57,43,00,000
	Capital	3,68,75,00,000	..	3,68,75,00,000
14.	Other Expenditure pertaining to Energy and Petro-Chemicals Department Capital	14,83,000	..	14,83,000
15.	Finance Department Revenue	2,13,00,000	..	2,13,00,000
	Capital	3,72,000	..	3,72,000
16.	Tax Collection Charges (Finance Department) Revenue	1,08,55,75,000	..	1,08,55,75,000
17.	Treasury and Accounts Administration Revenue	14,39,39,000	..	14,39,39,000
18.	Pensions and other Retirement Benefits Revenue	1,71,67,00,000	10,00,000	1,71,77,00,000
19.	Other Expenditure pertaining to Finance Department Revenue	1,54,18,97,000	..	1,54,18,97,000
	Capital	97,07,000	1,00,000	98,07,000
20.	Repayment of Debt pertaining to Finance Department and its Servicing Revenue	..	6,54,22,79,000	6,54,22,79,000
	Capital	..	4,74,00,44,000	4,74,00,44,000
	Food and Civil Supplies Department Revenue	2,41,90,000	..	2,41,90,000
22.	Civil Supplies Revenue	26,73,80,000	..	26,73,80,000
	Capital	2,00,000	..	2,00,000

No. of Vote/ Appropriation	Services and purposes	Sums not exceeding			
		Voted	Charged on the Consol- idated Fund	Total	
1	2	3			
		Rs.	Rs.	Rs.	
23.	Food	Revenue	4,79,56,000	..	4,79,56,000
		Capital	10,00,000	..	10,00,000
24.	Other Expenditure pertaining to Food and Civil Supplies Department	Capital	12,11,000	..	12,11,000
25.	Forest and Environment Department	Revenue	40,09,000	..	40,09,000
26.	Forests	Revenue	29,83,51,000	..	29,83,51,000
		Capital	40,24,49,000	..	40,24,49,000
27.	Environment	Revenue	1,83,00,000	..	1,83,00,000
28.	Other Expenditure pertaining to Forest and Environment Department	Capital	17,82,000	..	17,82,000
29.	Governor	Revenue	..	59,10,000	59,10,000
30.	Council of Ministers	Revenue	1,06,75,000	..	1,06,75,000
31.	Elections	Revenue	64,31,000	..	64,31,000
32.	Public Service Commission	Revenue	21,70,000	90,05,000	1,11,75,000
33.	General Administration Department	Revenue	6,12,52,000	..	6,12,52,000
34.	Economic Advice and Statistics	Revenue	3,48,24,000	..	3,48,24,000
35.	Other Expenditure pertaining to General Administration Department	Revenue	52,85,67,000	..	52,85,67,000
		Capital	76,51,000	..	76,51,000

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No. of Vote/ Appropriation	Services and purposes	Sums not exceeding		
		Voted	Charged on the Consolidated Fund	Total
1	2	3		
		Rs.	Rs.	Rs.
36.	State Legislature	Revenue 2,23,70,000	1,70,000	2,25,40,000
37.	Loans and Advances to Government servants in Gujarat Legislature Secretariat	Capital 5,95,000	..	5,95,000
38.	Health and Family Welfare Department	Revenue 1,33,50,000	..	1,33,50,000
39.	Medical and Public Health	Revenue 1,96,88,12,000	..	1,96,88,12,000
40.	Family Welfare	Revenue 43,99,87,000	..	43,99,87,000
41.	Water Supply	Revenue 40,18,00,000	..	40,18,00,000
		Capital 45,77,10,000	..	45,77,10,000
42.	Other Expenditure pertaining to Health and Family Welfare Department	Revenue 27,76,42,000	..	27,76,42,000
		Capital 1,93,66,000	..	1,93,66,000
43.	Home Department	Revenue 1,21,73,000	..	1,21,73,000
44.	Police	Revenue 2,13,62,98,000	3,00,000	2,13,65,98,000
45.	Jails	Revenue 6,89,79,000	..	6,89,79,000
46.	Transport	Revenue 1,24,64,26,000	..	1,24,64,26,000
		Capital 3,96,00,000	..	3,96,00,000
47.	Other Expenditure pertaining to Home Department	Revenue 12,22,17,000	1,00,000	12,23,17,000
		Capital 4,87,57,000	..	4,87,57,000
48.	Industries and Mines Department	Revenue 96,57,000	..	96,57,000
49.	Stationery and Printing	Revenue 21,65,70,000	..	21,65,70,000

No. of Vote/ Appro- pria- tion	Services and purposes	Sums not exceeding		
		Voted	Charged on the Consoli- dated Fund	Total
1	2	3		
		Rs.	Rs.	Rs.
50.	Industries	Revenue	75,23,32,000	75,23,32,000
		Capital	32,68,00,000	32,68,00,000
51.	Mines and Minerals	Revenue	6,37,10,000	6,37,10,000
		Capital	1,00,00,000	1,00,00,000
52.	Other Expenditure pertaining to Industries and Mines Department	Revenue	9,45,000	9,45,000
		Capital	32,30,000	32,30,000
53.	Information, Broadcasting and Tourism Department	Revenue	26,00,000	26,00,000
54.	Information and Publicity	Revenue	12,19,41,000	12,19,41,000
		Capital	5,00,000	5,00,000
55.	Tourism	Revenue	1,32,63,000	1,32,63,000
		Capital	76,00,000	76,00,000
56.	Other Expenditure pertaining to Information, Broadcasting and Tourism Department	Revenue	1,35,02,000	1,35,02,000
		Capital	8,44,000	8,44,000
57.	Labour and Employment Department	Revenue	52,22,000	52,22,000
58.	Labour and Employment	Revenue	34,45,39,000	34,45,39,000
		Capital	3,00,000	3,00,000
59.	Other Expenditure pertaining to Labour and Employment Department	Capital	36,93,000	36,93,000
60.	Legal Department	Revenue	1,52,10,000	1,52,10,000
61.	Administration of Justice	Revenue	27,00,26,000	3,33,16,000
62.	Other Expenditure pertaining to Legal Department	Revenue	1,00,81,000	1,00,81,000
		Capital	31,17,000	31,17,000

No. of Vote/ Appro- pria- tion.	Services and purposes	Sums not exceeding		
		Voted	Charged on the Consoli- dated Fund	Total
1	2	3		
		Rs.	Rs.	Rs.
63.	Narmada and Water Resources Department	Revenue 1,35,30,000	..	1,35,30,000
64.	Narmada Development Scheme	Revenue 39,00,00,000 Capital 4,84,19,30,000	39,00,00,000 4,84,19,30,000
65.	Irrigation and Soil Conservation	Revenue 3,65,21,34,000 Capital 1,31,70,70,000	3,65,21,34,000 1,31,70,70,000
66.	Other Expenditure pertaining to Narmada and Water Resources Department	Revenue 4,00,000 Capital 88,10,000	4,00,000 88,10,000
67.	Panchayats and Rural Housing Department	Revenue 73,60,000	..	73,60,000
68.	Community Development	Revenue 66,32,40,000 Capital 11,00,000	66,32,40,000 11,00,000
69.	Rural Housing	Revenue 16,80,10,000 Capital 3,93,00,000	30,05,00,000 ..	46,85,10,000 3,93,00,000
70.	Compensations and Assignments	Revenue 13,01,35,000	..	13,01,35,000
71.	Other Expenditure per- taining to Panchayats and Rural Housing Department	Revenue 4,86,05,000 Capital 3,25,09,000	4,86,05,000 3,25,09,000
72.	Revenue Department	Revenue 2,19,41,000	..	2,19,41,000
73.	Tax Collection Charges (Revenue Department)	Revenue 22,59,00,000	1,00,00,000	23,59,00,000
74.	District Administration	Revenue 20,93,17,000	..	20,93,17,000
75.	Relief on account of Natural Calamities	Revenue 84,75,00,000 Capital 25,00,000	84,75,00,000 25,00,000

No. of Vote/ Appropriation	Services and purposes	Sums not exceeding		
		Voted	Charged on the Consolidated Fund	Total
1	2	3		
		Rs.	Rs.	Rs.
76.	Dangs District	Revenue 10,05,15,000 Capital 2,00,000	10,05,15,000 2,00,000
77.	Compensations and Assignments	Revenue 5,36,60,000 Capital 27,00,000	22,70,000 19,50,000	5,59,30,000 46,50,000
78.	Other Expenditure pertaining to Revenue Department	Revenue 40,18,000 Capital 85,11,000	5,000 ..	40,23,000 85,11,000
79.	Roads and Buildings Department	Revenue 2,61,75,000	..	2,61,75,000
80.	Non-Residential Buildings	Revenue 82,02,94,000 Capital 30,37,01,000	3,12,000 ..	82,06,06,000 30,37,01,000
81.	Residential Buildings	Revenue 39,34,84,000 Capital 6,72,06,000	39,34,84,000 6,72,06,000
82.	Roads and Bridges	Revenue 1,67,84,36,000 Capital 37,31,00,000	1,67,84,36,000 37,31,00,000
83.	Ports	Revenue 16,60,000 Capital 9,77,56,000	16,60,000 9,77,56,000
84.	Gujarat Capital Construction Scheme	Revenue 1,58,21,000 Capital 8,00,00,000	1,58,21,000 8,00,00,000
85.	Other Expenditure pertaining to Roads and Buildings Department	Revenue 4,60,25,000 Capital 1,43,11,000	4,60,25,000 1,43,11,000
86.	Social Welfare and Tribal Development Department	Revenue 71,40,000	..	71,40,000
87.	State Excise	Revenue 1,70,70,000	..	1,70,70,000

No. of Vote/ Appro- priation	Services and purposes	Sums not exceeding		
		Voted	Charged on the Consoli- dated Fund	Total
1	2	3		
		Rs.	Rs.	Rs.
88.	Social Security and Welfare	Revenue 45,42,05,000 Capital 1,45,75,000	45,42,05,000 1,45,75,000
89.	Welfare of Scheduled Tribes	Revenue 19,16,45,000 Capital 22,90,000	19,16,45,000 22,90,000
90.	Other Expenditure pertaining to Social Welfare and Tribal Development Department.	Capital 16,52,000	..	16,52,000
91.	Special Component Plan for Scheduled Castes	Revenue 78,34,50,000 Capital 7,48,11,000	78,34,50,000 7,48,11,000
92.	Tribal Area Sub-Plan	Revenue 1,97,74,55,000 Capital 64,75,77,000	1,97,74,55,000 64,75,77,000
93.	Urban Development and Urban Housing Department	Revenue 46,65,000	..	46,65,000
94.	Urban Housing	Revenue 69,60,000 Capital 6,58,00,000	6,95,47,000 ..	7,65,07,000 6,58,00,000
95.	Urban Development	Revenue 40,15,21,000 Capital 7,50,00,000	40,15,21,000 7,50,00,000
96.	Compensations, Assignments and Tax Collections Charges	Revenue 12,98,00,000	11,51,03,000	24,49,03,000
97.	Other Expenditure pertaining to Urban Development and Urban Housing Department	Revenue 1,23,85,000 Capital 8,80,000	1,23,85,000 8,80,000
98.	Youth Services and Cultural Activities Department	Revenue 5,00,000	..	5,00,000

No. of Vote/ Appropriation	Services and purposes	Sums not exceeding			
		Voted	Charged on the Consol- dated Fund	Total	
1	2	3			
		Rs.	Rs.	Rs.	
99.	Youth Services and Cultural Activities	Revenue	9,46,99,000	..	9,46,99,000
100.	Other Expenditure pertaining to Youth Services and Cultural Activities Department	Capital	8,92,000	..	8,92,000
		Revenue	41,58,48,73,000	7,32,36,57,000	48,90,85,30,000
	Total	Capital	13,61,78,06,000	4,74,31,94,000	18,36,10,00,000
	Grand Total ..		55,20,26,79,000	12,06,68,51,000	67,26,95,30,000



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separate Compilation.

P A R T IV

**Acts of the Gujarat Legislature and Ordinances promulgated and
Regulations made by the Governor.**

LEGAL DEPARTMENT

Sachivalaya, Gandhinagar, dated the 3rd April, 1991.

GUJARAT ORDINANCE NO. 1 OF 1991.

AN ORDINANCE

*further to amend the Gujarat Legislative Assembly Members (Removal of
Disqualifications) Act, 1960.*

WHEREAS the Legislative Assembly of the State of Gujarat is not in session;

Guj. I of
1960.

AND WHEREAS the Governor of Gujarat is satisfied that circumstances
exist which render it necessary for him to take immediate action to amend
the Gujarat Legislative Assembly Members (Removal of Disqualifications)
Act, 1960;

NOW, THEREFORE, in exercise of the powers conferred on him by clause
(1) of article 213 of the Constitution, the Governor of Gujarat is hereby pleased
to make and promulgate the following Ordinance, namely:—

12-1

IV-Ex. 12-1

1. *Short title and commencement.*— (1) This Ordinance may be called the Gujarat Legislative Assembly Members (Removal of Disqualifications) (Amendment) Ordinance, 1991.

(2) It shall come into force at once

2. *Guj. 1 of 1960 to be temporarily amended.*— During the period of operation of this Ordinance, the Gujarat Legislative Assembly Members (Removal of Disqualifications) Act, 1960 (hereinafter referred to as “the principal Act”) shall have effect subject to the amendment specified in section 3.

Guj. 1 of 1960.

3. *Amendment of Schedule to Guj. 1 of 1960.*— In the principal Act, in the Schedule,—

(1) in entry 14, for the word “member”, the word “Director” shall be substituted;

(2) after entry 25, the following entries shall be added, namely:—

“26. The office of Chairman of the Gujarat State Road Transport Corporation established under the Road Transport Corporations Act, 1950.

64 of 1950.

27. The office of Chairman or Director of the Gujarat Dairy Development Corporation Limited.

28. The office of Chairman or Director of the Gujarat State Handloom Development Corporation Limited.

29. The office of Chairman or Director of the Gujarat State Export Corporation Limited.

30. The office of Chairman or Director of the Gujarat State Warehousing Corporation established under the Warehousing Corporations Act, 1962.”.

58 of 1962.

STATEMENT

Some of the Boards and Corporations or Limited Companies formed by the State Government require able heads experienced in the fields of trade, commerce, industry, finance, management or public life to man them efficiently. This is particularly so with regard to those bodies which deal directly with the public and social activities. Sometimes, some Members of the Gujarat Legislative Assembly are found suitable for the purpose but on account of the provision of disqualification in clause (1) of article 191 of the Constitution a doubt arises whether acceptance of the post of a Chairman, member or Director of such a body by a Member of the Gujarat Legislative Assembly would disqualify him on the ground of holding an office of profit under the Government. It is, therefore, considered necessary to remove the disqualification that might be incurred by such Member on being appointed as Chairman or Director of such a body by adding entries 26, 27, 28 and 29 in the Schedule to the Gujarat Legislative Assembly Members (Removal of Disqualifications) Act, 1960. For this purpose, a Bill called the Gujarat Legislative Assembly Members (Removal of Disqualifications) (Amendment) Bill, 1991 was introduced in the last session of the Gujarat Legislative Assembly on the 14th February, 1991 but could not be taken up for consideration by the House for want of time.

It is also considered necessary to add entry 30 in the said Schedule to remove the disqualification that might be incurred by such Member on being appointed as Chairman or Director of the Gujarat State Warehousing Corporation. Amendment in entry 14 is consequential to the amendment of the Gujarat Industrial Development Act, 1962 by the Gujarat Industrial Development (Amendment) Act, 1986.

As the Gujarat Legislative Assembly is not in session, this Ordinance is promulgated to amend the said Schedule to achieve the aforesaid object.

Gandhinagar,

Dated the 3rd April, 1991.

SARUP SINGH,

Governor of Gujarat.

By order and in the name of the Governor of Gujarat,

R. H. GORI,

Secretary to Government.



The Gujarat Government Gazette

EXTRAORDINARY

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Separate paging is given to this Part in order that it
may be filed as a separate compilation.

PART IV

**Acts of the Gujarat Legislature and Ordinances promulgated and
Regulations made by the Governor.**

The following Act of the Gujarat Legislature having been assented to by the President on the 29th March, 1991 is hereby published for general information.

R. M. MEHTA,
Secretary to the Government of Gujarat,
Legal Department.

GUJARAT ACT NO. 12 OF 1991.

(First published, after having received the assent of the president in the "Gujarat Government Gazette" on the 4th April, 1991).

AN ACT

to declare certain transfers of immovable property in disturbed areas of the State to be void and to prohibit temporarily transfers of immovable property in such areas and to further amend the Bombay Rents, Hotel and Lodging House Rates Control Act, 1947 for providing protection to tenants of certain immovable properties in such areas from eviction.

It is hereby enacted in the Forty-second Year of the Republic of India as follows:—

1. This Act may be called the Gujarat Prohibition of Transfer of Immovable Property and Provision for Protection of Tenants from Eviction from Premises in Disturbed Areas Act, 1991. Short title.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) “disturbed area” means an area declared as disturbed area under section 3;

(b) “fair value” in relation to immovable property in disturbed areas means such value of the property as approximate the market value of such property;

(c) “prescribed” means prescribed by rules made under section 12.

Declaration
of disturbed
area.3. (1) Where the State Government, having regard to the intensity and duration of riot or violence of mob and such other factors in any area of the State is of opinion that public order in that area was disturbed for a substantial period by reason of riot or violence of mob, it may, by notification in the *Official Gazette*,—

(a) declare such area to be a disturbed area;

(b) specify the substantial period (hereinafter referred to as “the specified period”).

Explanation.—In this section the word “riot” shall have the same meaning as in section 146 of the Indian Penal Code.XLV of
1860.(2) Where the State Government is of opinion that public order in the area declared as disturbed area under sub-section (1) has ceased to be disturbed, it may by notification in the *Official Gazette* rescind the notification issued under sub-section (1) in relation to such area and on such rescission the provisions of this Act shall cease to apply to such area except as respects things done or omitted to be done under this Act and except as respects the application of the Bombay Rents, Hotel and Lodging House Rates Control Act, 1947 to such area, as amended by this Act.Bom. LVII
of 1947.Certain
transfers of
immovable
property to
be void.

4. (1) Notwithstanding anything contained in any other law for the time being in force but subject to sub-sections (2) and (3) all transfers of immovable property situated in a disturbed area made during the specified period shall be null and void, with effect from the date of such transfer.

(2) (a) Any transferor or transferee in relation to a transfer of immovable property affected by the provisions of sub-section (1) may, within the prescribed period and in the prescribed form, make an application to the Collector for a declaration that the transfer of immovable property was made by free consent of the transferor and the transferee and for a fair value of the immovable property so transferred.

(b) On receipt of such application, the Collector shall hold a formal inquiry in the manner prescribed by the Bombay Land Revenue Code, 1879 and after giving an opportunity to the transferor and the transferee to be heard and after considering any evidence produced, decide whether the transfer of immovable property was made by free consent of the transferor and the transferee and for a fair value of the immovable property and accordingly —

Bom. V of
1879.

(i) reject the application; or

(ii) by an order in writing make a declaration that the transfer of the immovable property was made by free consent of the transferor and the transferee and for a fair value of the immovable property so transferred.

(3) Upon a declaration made under sub-clause (ii) of clause (b) of sub-section (2) in respect of any transfer of immovable property, such transfer of immovable property shall, with effect from the date of such transfer, be deemed to be valid for the purposes of this Act.

4 of 1982

Explanation.—For the purposes of this section and section 5, the word “transfer” in relation to an immovable property means a transfer by way of sale, gift, exchange, lease or otherwise and includes allowing the possession of such property to be taken or retained in part performance of contract of the nature referred to in section 53A of the Transfer of Property Act, 1882.

5. (1) Notwithstanding anything contained in any other law for the time being in force but subject to provisions of sub-section (3), no immovable property situated in a disturbed area shall, during the period of subsistence of the notification issued under sub-section (1) of section 3 declaring such area to be the disturbed area, be transferred except with the previous sanction of the Collector.

Prohibition of transfer of immovable property in disturbed area.

(2) Any transfer of immovable property made in contravention of sub-section (1) shall be null and void.

(3) (a) Any person intending to transfer immovable property situated in a disturbed area may, within the prescribed period and in the prescribed form, make an application to the Collector for obtaining previous sanction under sub-section (1).

Ben. V of 1879.

(b) On receipt of such application the Collector shall hold a formal inquiry in the manner provided by the Bombay Land Revenue Code, 1879, and after giving an opportunity to the applicant to be heard and after considering any evidence produced, decide whether the transfer of immovable property is proposed to be made by free consent of the persons intending to be the transferor and the transferee and for a fair value of the immovable property proposed to be transferred and accordingly —

(i) reject the application; or

(ii) by an order in writing give previous sanction to the proposed transfer of immovable property.

6. Any person aggrieved by the decision of the Collector rejecting an application under sub-clause (i) of clause (b) of sub-section (2) of section 4 or under sub-clause (i) of clause (b) of sub-section (3) of section 5 may file an appeal before the State Government in such manner, within such time, and on payment of such fees, as may be prescribed.

Appeals.

Proceedings to be judicial proceedings.

7. All inquiries and proceedings before the Collector and the State Government under this Act, shall be deemed to be judicial proceedings within the meaning of sections 193, 219 and 228 of the Indian Penal Code.

Finality of decision of Collector and State Government.

8. The decision of the Collector under section 4 or 5, subject to an appeal to the State Government under section 6 and the decision of the State Government on the appeal, shall be final and conclusive and shall not be questioned in any Court.

XLV of 1890

Sections 4 and 5 not to apply to certain transfers of immovable property.

9. The provisions of sections 4 and 5 shall not apply to any transfer by way of mortgage of any immovable property situated in a disturbed area in favour of a financial institution for the purpose of obtaining financial assistance from such institution.

Explanation.—For the purposes of this section “financial institution” means—

(a) a Corporation as defined in clause (b) of section 2 of the Gujarat Public Moneys (Recovery of Dues) Act, 1979.

Guj. 17 of 1979.

(b) a Bank as defined in clause (c) of that section.

Protection of action taken under this Act.

10. No suit, prosecution or other legal proceedings shall lie against any person for anything which is in good faith done or purported to be done under this Act.

Delegation of powers.

11. The State Government may, by notification in the *Official Gazette*, delegate any of the powers of the Collector under section 4 or 5 to any officer of the Government not below the rank of a Deputy Collector.

Power to make rules.

12. (1) The State Government may, by notification in the *Official Gazette*, make rules for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing powers, such rules may be made to provide for all or any of the following matters, namely:—

(a) the period within which and the form in which, an application may be made under clause (a) of the sub-section (2) of section 4 ;

(b) the period within which, and the form in which, an application may be made under clause (a) of sub-section (3) of section 5 ;

(c) the manner in which, the time within which and fees on payment of which, an appeal may be filed under section 6 ;

(d) any other matter which is to be, or may be, prescribed by rules, made under this Act.

(3) All rules made under this section shall be laid for not less than thirty days before the State Legislature as soon as possible after they are made

and shall be subject to rescission by the State Legislature, or to such modification as the State Legislature may make during the session in which they are so laid or the session immediately following.

(4) Any rescission or modification so made by the State Legislature shall be published in the *Official Gazette* and shall there upon take effect.

Bom. LVII
of 1947.

13. In the Bombay Rents, Hotel and Lodging House Rates Control Act, 1947, (hereinafter referred to as "the principal Act"), after section 11, the following new section shall be inserted, namely :--

Insertion of
new section,
11A in
Bom. LVII of
1947.

"11A. Where by reason of any riot or violence of mob any material part of the premises in a disturbed area is wholly destroyed or rendered substantially and permanently unfit for the purpose for which it was let,-

Right of
tenants
in new
building in
disturbed
areas.

(a) the landlord shall erect the new building at the original site subject to the provisions of any rules, bye-laws or regulations made by a local authority not later than fifteen months from the date of the publication of the notification in the *Official Gazette*, issued under sub-section (1) of section 3 of the Gujarat Prohibition of Transfer of Immovable Property and Provision for Protection of Tenants from Eviction from Premises in Disturbed Areas Act, 1991 or the date on which the material part of premises of the building is wholly destroyed or rendered substantially and permanently unfit, whichever is later :

Guj. 12
of 1991.

Provided that the State Government may for sufficient reasons extend the period of fifteen months to such further period not exceeding nine months as it thinks fit,

(b) the tenant shall have the right to occupy a tenement in the new building erected at the original site by the landlord, and

the provisions of sections 17B and 17C shall, so far as may be, apply.

Guj 12
of 1991.

Explanation.--In this section and in sub-section (1A) of section 12, the expression "disturbed area" shall have the same meaning as assigned to it in the Gujarat Prohibition of Transfer of Immovable Property and Provision for Protection of Tenants from Eviction from Premises in Disturbed Areas Act, 1991."

14. In the principal Act, in section 12, after sub-section (1), the following sub-section shall be inserted, namely :--

Amendment
of section
12 of Bom.
LVII of 1947.

"(1A) Where by reason of any riot or violence of mob any material part of the premises in a disturbed area is wholly destroyed or rendered substantially and permanently unfit for the purpose for which it was let, the landlord shall not be entitled to --

(a) the standard rent and permitted increases due for the premises,

(b) recover possession of such premises merely on the ground of non-payment of standard rent and permitted increases due,

during the period in which such premises remain so destroyed or unfit."

Insertion of
new section
17D in Bom.
LVII of 1947.

15. In the principal Act, after section 17C, the following new section shall be inserted, namely :—

Vesting of
original site
in State Govern-
ment.

“17D. (1) Where a landlord fails to erect a new building within the period specified in clause (a) of section 11A, the original site, irrespective of whether the premises thereon referred to in section 11A exist or not, shall vest in the State Government free from all encumbrances for the purpose of erection of new building to provide accommodation to tenants and there shall be paid to the landlord such compensation for such site as may, subject to such rules as may be made in this behalf under section 49, by an order, be determined by the Collector.

(2) An appeal shall lie to the State Government from an order made by the Collector under sub-section (1) determining the amount of compensation to be paid to the landlord, within thirty days from the date of communication of the order and the State Government may pass such order as it deems fit.”.

Amendment
of section
49 of Bom.
LVII of
1947.

16. In the principal Act, in section 49, in sub-section (2),—

(1) after clause (ai), the following clause shall be inserted, namely:—

“(aai) the rules subject to which compensation may be determined by the Collector under sub-section (1) of section 17D;”.

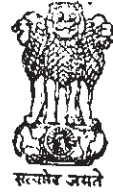
(2) for clause (v), the following clause shall be substituted, namely:—

“(v) levy of court-fees in suits, appeals, proceedings and applications instituted or made before the State Government, Court, Controller or Collector.”.

Repeal.

17. The Gujarat Prohibition of Transfer of Immovable Property and Provision for Protection of Tenants from Eviction from Premises in Disturbed Areas Act, 1986 is hereby repealed.

Guj. 30
of 1986.



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Separate paging is given to this Part in order that it may be filed as a separate Compilation.

PART IV

Acts of the Gujarat Legislature and Ordinances promulgated and Regulations made by the Governor.

The following Act of the Gujarat Legislature having been assented to by the President on the 3rd April, 1991 is hereby published for general information.

R. M. MEHTA,
 Secretary to the Government of Gujarat,
 Legal Department.

GUJARAT ACT NO. 13 OF 1991.

(First published, after having received the assent of the President in the "Gujarat Government Gazette" on the 6th April, 1991).

AN ACT

further to amend the Indian Partnership Act, 1932 in its application to the State of Gujarat.

It is hereby enacted in the Forty-second Year of the Republic of India as follows :—

1. This Act may be called the Indian Partnership (Gujarat Amendment) Act, 1991. Short title,

9 of 1932.— 2. In the Indian Partnership Act, 1932, in its application to the State of Gujarat, for Schedule I, the following Schedule shall be substituted, namely :—

Substitution of Schedule 1 to 9 of 1932.

"SCHEDULE—I

MAXIMUM FEES

(See sub-section (1) of section 71)

Document or act in respect of which the fee is payable.	Maximum fee.
Statement under section 58	Fifty rupees.
Statement under section 60	Twenty-five rupees.
Intimation under section 61	Twenty-five rupees.
Intimation under section 62	Twenty-five rupees.
Notice under section 63	Twenty-five rupees.
Application under section 64	Twenty-five rupees.
Inspection of the Register of Firms under sub-section (1) of section 66	Ten rupees for inspecting one volume of the Register.
Inspection of documents relating to a firm under sub-section (2) of section 66	Ten rupees for the inspection of all documents relating to one firm.
Copies from the Register of Firms	Five rupees for each hundred words or part thereof."



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may be filed as a separate compilation.

P A R T I V

**Acts of the Gujarat Legislature and Ordinances promulgated and
Regulations made by the Governor.**

ROADS AND BUILDINGS DEPARTMENT

Sachivalaya, Gandhinagar, Dated the 31st July, 1991.

GUJARAT ORDINANCE NO. 2 OF 1991.

AN ORDINANCE

further to amend the Bombay Land Requisition Act, 1948.

WHEREAS the Legislative Assembly of the State of Gujarat is not in session:

AND WHEREAS the Governor of Gujarat is satisfied that circumstances exist which render it necessary for him to take immediate action to amend the Bombay Land Requisition Act, 1948;

Bom.
XXXIII
of 1948.

AND WHEREAS instructions of the President under the proviso to clause (1) of article 213 of the Constitution have been obtained ;

NOW, THEREFORE, in exercise of the powers conferred on him by clause (1) of article 213 of the Constitution, the Governor of Gujarat is hereby pleased to make and promulgate the following Ordinance, namely:--

1. *Short title and commencement.*-- (1) This Ordinance may be called the Bombay Land Requisition (Gujarat Amendment) Ordinance, 1991.

(2) It shall come into force at once.

2. *Bom. XXXIII of 1948 to be temporarily amended.*--During the period of operation of this Ordinance, the Bombay Land Requisition Act, 1948 (hereinafter referred to as "the principal Act") shall have effect subject to the amendment specified in section 3.

Bom.
XXXIII
of 1948.

3. *Amendment of section 9 of Bom. XXXIII of 1948.*-- In the principal Act, in section 9, in sub-section (1A), for the words "eleven years", where they occur at two places, the words "thirteen years" shall be substituted.

STATEMENT

The Bombay Land Requisition Act, 1948, which initially was for a temporary duration, has been placed permanently on the Statute Book and while doing so, the period for which the land could be requisitioned or continued under requisition under the Act has been laid down, under sub-section (1A) of section 9, as 11 years from the date of the Commencement of the Bombay Land Requisition (Gujarat Amendment) Act, 1980 in respect of land requisitioned prior to such commencement and 11 years from the date of requisitioning of land in respect of land requisitioned after such commencement. The Amending Act of 1980, came into force on the 31st July, 1980. As the majority of premises have been requisitioned under the Act before the commencement of the Amending Act of 1980, they would have to be released from requisition on or before the 31st July, 1991. However, before the premises are released from requisition, it would be necessary to provide alternative accommodation to Government allottees. Although, conditions in respect of housing accommodation in the State have generally improved, shortage of accommodation, in some areas to which the Act extends, still continues. It would not be possible for the Government to provide alternate accommodation to the Government allottees within the limited period now available. It is, therefore, considered necessary to extend the maximum period for which the premises may be requisitioned or retained under requisition from 11 years to 13 years, i.e. for a further period of two years ending on the 31st July, 1993.

As the Gujarat Legislative Assembly is not in session, this Ordinance is promulgated to amend the Act to achieve the aforesaid object.

Gandhinagar,
Dated the 31st July, 1991.

SARUP SINGH,
Governor of Gujarat.

By order and in the name of the Governor of Gujarat,

C. S. SONI,
Deputy Secretary to Government.



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P A R T I V

Acts of the Gujarat Legislature and Ordinances promulgated and Regulations made by the Governor.

The following Act of the Gujarat Legislature, having been assented to by the President on the 27th August, 1991 is hereby published for general information.

R. H. GORI,
 Secretary to the Government of Gujarat,
 Legal Department.

GUJARAT ACT NO. 14 OF 1991.

(First published, after having received the assent of the president in the "Gujarat Government Gazette" on the 31st August, 1991).

An Act to provide for the constitution of an Advocates Welfare Fund and utilisation thereof for payment of certain retirement and other benefits to the advocates in the State of Gujarat.

It is hereby enacted in the Forty-second Year of the Republic of India as follows :—

CHAPTER I.

Preliminary.

1. (1) This Act may be called the Gujarat Advocates Welfare Fund Act, 1991.
- (2) It extends to the whole of the State of Gujarat.
- (3) It shall come into force on such date as the State Government may, by notification in the *Official Gazette*, appoint.

Short title,
 extent and
 commencement.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) "Administrative Committee" means the Administrative Committee constituted under section 5;

(b) "advocate" means a person whose name has been enrolled on the roll of advocates prepared and maintained by the Bar Council under section 17 of the Advocates Act;

(c) "Advocates Act" means the Advocates Act, 1961;

(d) "Advocates Welfare Fund" or "Fund" means the fund constituted under section 3 and maintained under the provisions of this Act;

XXV of
1961.

(e) "Bar Association" means an association of advocates attached to any court or any tribunal or such other authority or person as is legally authorised to take evidence or to adjudicate or to decide any dispute in the State of Gujarat and recognised by the Bar Council under section 14;

(f) "Bar Council" means the Bar Council of Gujarat constituted under section 3 of the Advocates Act;

(g) "cessation of practice" in relation to an advocate means discontinuance of practice by the advocate by taking up any employment, trade, calling or other similar engagement or discontinuance of practice on account of death;

(h) "dependants" means wife, husband, father, mother, unmarried daughter and minor child or such of them as exist;

(i) "member of the Fund" means an advocate who is admitted to the benefits of the Fund and who continues to be a member thereof under the provisions of this Act;

(j) "nominee" means a person nominated in the prescribed manner by a member of the Fund to receive the amount, which may be due to the member, from the Fund in the event of his death before the amount is paid to him;

(k) "prescribed" means prescribed by regulations;

(l) "regulations" means regulations made by the Bar Council under this Act;

(m) "retirement" means giving up of practice as an advocate which is communicated to and recorded by the Bar Council;

(n) "stamp" means the Gujarat Advocates Welfare Fund Stamp printed and distributed by the Bar Council under section 20 ;

(o) "standing" means the period of actual practice after the commencement of this Act;

(p) "suspension of practice" means suspension of practice as an advocate voluntarily or otherwise.

CHAPTER II.

Constitution and management of Advocates Welfare Fund.

3. (1) The State Government shall constitute a fund called the Gujarat Advocates Welfare Fund.

**Constitution
of Fund.**

(2) There shall be credited to the Fund—

(a) an initial amount of rupees one lakh to be contributed by the Bar Council to the Fund ;

(b) all the amounts to be contributed by the Bar Council annually from the year 1991 onwards under sub-section (3);

(c) any other contribution made by the Bar Council;

(d) any voluntary donation or contribution to the Fund made by the Bar Council of India or any other Bar Council or any Bar Association;

(e) any voluntary donation made to the Fund by any advocate or his relatives;

(f) contributions paid by members of the Fund to the Fund under section 19;

(g) all sums received from the Life Insurance Corporation of India on the death of any member of the Fund under any Group Insurance Policy;

(h) any profit or dividend from the Life Insurance Corporation of India in respect of policies of Group Insurance of the members of the Fund;

(i) any interest or dividend or other return on any investment made of any part of the Fund.

(3) The Bar Council shall contribute to the Fund annually an amount at such rate not exceeding thirty per cent. of the enrolment fees realised by it as the Bar Council may from time to time think fit.

4. For the purpose of management and utilisation of the Fund under this Act, the Fund shall vest in the Bar Council and the Fund shall be held and applied by the Bar Council in accordance with the provisions of this Act and the regulations.

**Bar Council
to manage
Fund**

Constitution of administrative committee.

5. (1) There shall be an administrative committee, consisting of the following members, namely:—

- (a) The Advocate-General, Gujarat State. .. *Ex-Officio*
- (b) The Secretary and Remembrancer of Legal Affairs to Government of Gujarat, Legal Department. .. *Ex-Officio*
- (c) The Chairman of the Bar Council of Gujarat. .. *Ex-Officio*
- (d) The Chairman of the Executive Committee of the Bar Council .. *Ex-Officio*
- (e) Three members to be nominated by the Bar Council from amongst its members. ..

(2) The powers, functions and duties of the Administrative Committee shall be as provided by this Act and by regulations.

Term of office of nominated members of Administrative Committee.

6. A person nominated as a member of an Administrative Committee under clause (c) of sub-section (1) of section 5 (hereinafter in sections 7, 8 and 9 referred to as "the nominated member") shall hold office for such period as may be prescribed or for the duration of his membership in the Bar Council whichever is less, unless he is removed under sub-section (2) of section 7 or resigns his office and his resignation is accepted by the Bar Council under section 8.

Disqualification and removal of nominated members.

7. (1) A person shall be disqualified to be a nominated member if he—

- (a) is adjudged by a competent court to be of unsound mind; or
- (b) is adjudicated an insolvent and has not obtained his discharge or
- (c) is convicted of an offence which in the opinion of the State Government involves moral turpitude; or
- (d) has in the opinion of the State Government committed a breach of trust or where he is a member of the Fund committed persistent default in payment of his contribution to the Fund under section 19.

(2) The State Government may remove any nominated member who is or has become disqualified under sub-section (1) from his office as a member of the Administrative Committee:

Provided that no order removing any member shall be made unless that member and the Bar Council have been given an opportunity of being heard.

Resignation by nominated members.

8. A nominated member may resign his office by giving one month's notice in writing to the Bar Council and on such resignation being accepted by the Bar Council, the nominated member shall be deemed to have vacated his office

9. A casual vacancy in the office of a nominated member occurring on account of death, resignation or removal of the member shall be filled up, as soon as may be, by nomination of a person by the Bar Council under clause (e) of sub-section (1) of section 5 and the person so nominated shall hold office so long as the member in whose place he is nominated would have been entitled to hold office, if the vacancy had not occurred.

Filling up
of casual
vacancies.

10. For carrying out the provisions of this Act the Bar Council may appoint such officers and servants on such terms and conditions as may be prescribed.

Appointment
of officers
and servants.

11. All amounts due and payable under this Act and all expenditure relating to the management and administration of the Fund shall be paid out of the Fund.

Amounts to
be paid out
of the Fund.

12. The Bar Council shall send to the State Government such periodical and annual reports as may be prescribed.

Periodical
and annual
reports to be
sent to
Government.

13. (1) The Bar Council shall cause to be maintained such books of account and other books in such form and in such manner as may be prescribed.

Maintenance
of accounts
and audit.

(2) The accounts of the Fund shall be audited annually by the Examiner of Local Fund Accounts or by any other person empowered by the State Government to perform the functions of an auditor under the Gujarat Local Fund Audit Act, 1963 as if the Fund were a local fund and the Bar Council were a local authority within the meaning of those expressions in the said Act.

Guj. XLIX
of 1963

(3) After the account of the Fund is so audited, the Bar Council shall send a copy of the auditor's report and balance sheet to the State Government.

(4) The Bar Council shall comply with the report of the auditor and may issue such direction in that behalf to the Administrative Committee as it may think fit.

CHAPTER III.

Recognition and registration of Bar Associations.

14. (1) Any association of advocates known by any name functioning in any court or before any tribunal or before any other authority or person legally authorised to take evidence or to adjudicate or decide any disputes may apply to the Administrative Committee in the prescribed form for recognition and registration.

Recognition
and registra-
tion of Bar
Association.

(2) Every application for recognition and registration shall be accompanied by the rules or by-laws of the Association, the names and addresses of the office bearers of the Association and an up-to-date list of the members of the Association showing the name, address, age, date of enrolment and the ordinary place of practice of each member.

(3) The Administrative Committee may after such enquiry as it deems necessary recognise or refuse to recognise the association.

(4) On recognition of such an association, Administrative Committee shall issue a certificate of registration in the prescribed form.

(5) Any association aggrieved by the decision of the Administrative Committee under sub-section (3), may prefer an appeal against the said decision to the Bar Council.

(6) The appeal shall be accompanied by--

(a) the order appealed against;

(b) a fee of one hundred rupees which shall not be refunded.

(7) The appeal shall be filed within thirty days from the date of receipt of the order appealed against.

(8) The decision of the Bar Council on the appeal shall be final.

**Duties of
Bar Association.**

15. (1) Every Bar Association shall, on or before the 31st January every year, intimate to the Bar Council a list of its members as on the 31st December of the previous year.

(2) Every Bar Association shall intimate to the Bar Council--

(a) any change of the office bearers of the Association within thirty days from such change;

(b) any change in the membership, including admissions and re-admissions in sixty days of such change;

(c) the death, retirement, suspension, cessation of practice of any of its members within ninety days from the date of occurrence thereof; and

(d) such other matters as may be prescribed or required by the Bar Council from time to time.

CHAPTER IV.

Membership in the Fund and payment therefrom.

**Membership
of Fund.**

16. (1) Any Advocate who permanently resides in the State of Gujarat and practises before any Court or any Tribunal, or any other authority or person legally authorised to take evidence or to adjudicate or decide any disputes in the State of Gujarat and is a member of a Bar Association recognised under section 14 may apply in the prescribed form to the Administrative Committee for admission as a member of the Fund

(2) On receipt of an application under sub-section (1), the Administrative Committee shall make such inquiries as it deems fit and either admit the applicant to the Fund or for reasons to be recorded in writing reject the application:

Provided that no order rejecting the application shall be passed unless the applicant has been given an opportunity of being heard.

(3) The applicant whose application is rejected under sub-section (2) may prefer an appeal to the Bar Council.

(4) The appeal shall be accompanied by the order appealed against.

(5) The Appeal shall be filed within thirty days from the date of receipt of the order appealed against.

(6) The decision of the Bar Council on the appeal shall be final.

17. (1) Every member of the Fund shall, at the time of admission to the membership of the Fund, make a nomination appointing a nominee in the prescribed manner.

Member to appoint nominee and to give notice of cessation of practice, etc.

(2) A member may at any time cancel such nomination by sending a notice in writing to the Administrative Committee, provided that a member shall alongwith such notice send a fresh nomination.

(3) Every member who voluntarily suspends practice or ceases to practise or retires shall, within sixty days of such suspension, cessation or retirement, intimate that fact to the Administrative Committee.

18. (1) A member of the Fund shall, on cessation of practice be, entitled to receive from out of the Fund an amount at the rate specified in sub-section (4).

Payment of retiring benefit from Fund.

(2) In the event of death of a member, the amount shall be paid to his nominee, or, where there is no nominee, to his dependants:

Provided that Administrative Committee may call for a succession certificate if circumstances so demand.

(3) A member of the Fund may opt for retirement benefits at any time after five years of his admission as a member of the Fund, but he shall be eligible for re-admission to the Fund as a new member subject to such conditions as may be prescribed.

(4) Payments shall be made under this section at the rate specified in the Schedule.

(5) An application for payment from the Fund shall be preferred to the Administrative Committee in the prescribed form.

(6) An application received under sub-section (5) shall be disposed of by the Administrative Committee after such inquiry as it deems necessary.

CHAPTER V.

Contribution by members to the Fund and the mode of payment thereof.

Advocates to
pay contribu-
tion to Fund.

19. (1) Every member of the Fund shall pay to the Fund a contribution at the rate and in the manner hereinafter provided.

(2) The contribution to be paid by the member shall be at the rate of four rupees in respect of every *Vakalatnama* presented by him to any court, including the High Court, tribunal or other authority or person in the State before which or whom the member is entitled to practise under section 30 of the Advocates Act.

(3) The payment of contribution shall be indicated by affixing to the *Vakalatnama* a stamp of the value of four rupees specially printed under this Act.

Printing and
sale of
stamps.

20. (1) The Bar Council shall cause to be printed and distributed the Gujarat Advocates Welfare Fund Stamps each of the value of four rupees with the Bar Council Emblem and its value inscribed thereon.

(2) The stamps shall be of the size 2 c. m. × 4 c. m. and be sold only to the members of the Fund.

(3) The custody of the stamps shall be with the Bar Council.

(4) The Bar Council shall control the distribution and sale of the stamps through the Bar Associations.

(5) The Bar Council and Bar Associations shall keep proper accounts of the stamps in such form and in such manner as may be prescribed.

(6) The Bar Associations shall purchase the stamps from the Bar Council after paying the value thereof less ten per cent of such value towards incidental expenses.

(7) The Bar Council shall, after deducting from the sale proceeds of stamps the actual cost of printing and distribution of stamps, pay the amount realised by sale of stamps to the Administrative Committee within fifteen days after the end of every quarter.

Vakalatnama
not
acceptable
unless
stamped.

21. No member of the Fund shall present to any court, tribunal or other authority or person his *Vakalatnama* unless a stamp is fixed to it under sub-section (3) of section 19 and no court, tribunal or other authority or person shall accept the *Vakalatnama* so presented unless it is so stamped.

Value of
stamps not
to be
included
in costs and
now to be
collected
from clients.

22. (1) The value of the stamp shall not be included in calculating the costs in the case.

(2) The value of the stamp shall not be collected by the member from his client.

(3) If any member contravenes the provisions of sub-section (2), he shall be liable to the Bar Council for appropriate action.

Cancellation
of stamps.

23. Every stamp affixed to a *Vakalatnama* under sub-section (3) of section 19 shall be cancelled in the manner provided in section 42 of the Bombay Court-fees Act, 1959.

Bom.
XXXVI of
1959.

CHAPTER VI.

Miscellaneous.

24. The Administrative Committee may, for the welfare of the members of the Fund,—

Group Life
Insurance for
members and
giving other
benefits.

- (a) obtain from the Life Insurance Corporation of India policies of Group Life Insurance for the members of the Fund;
- (b) provide for medical and educational facilities for the members of the Fund and their dependants including an insurance for that purpose;
- (c) provide for such other benefits and amenities as may be prescribed.

25. (1) Notwithstanding anything contained in any other law for the time being in force, the interest of any member in the Fund, or the right of a member of the Fund or his nominee, dependants or legal heirs to receive any amount from the Fund, shall not be assigned, alienated or charged and shall not be liable to attachment under any decree or order of any court, tribunal or other authority or person.

Restriction
on alienation,
attachment,
etc. of
interest of
member in
the Fund.

(2) No creditor shall be entitled to proceed against the Fund or the interest therein of any member or his nominee or legal heirs.

Explanation.— For the purpose of this section, 'creditor' includes the State or any official assignee or receiver appointed under any law for the time being in force.

26. No act or proceeding of the Administrative Committee shall be called in question on the ground merely of the existence of any vacancy in or any defect in the constitution of the Committee.

Vacancy in
Administra-
tive Commi-
tee not to
invalidate
acts or
proceedings.

27. (1) No suit, prosecution or other legal proceedings shall lie against any person for anything which is in good faith done or intended to be done in pursuance of this Act or any regulation.

Protection
of action
taken in
good faith.

(2) No suit or other legal proceeding shall lie against the Administrative Committee or the Bar Council for any damage caused or likely to be caused by anything which is in good faith done or intended to be done in pursuance of this Act or any regulation.

28. No Civil Court shall have jurisdiction to settle, decide or deal with any question or to determine any matter which is by or under this Act required to be settled, decided or dealt with or to be determined by the Administrative Committee or the Bar Council.

Bar or
jurisdiction
of Civil
Court.

Administra-
tive Commi-
ttee and
Bar Council
to have
powers of
Civil Courts.

Power to
make regu-
lations.

29. The Administrative Committee and the Bar Council shall be competent to take evidence on oath and shall exercise all powers of a Civil Court in the summoning of witnesses and the production of documents.

30. (1) The Bar Council may, with the previous approval of the State Government, by notification in the *Official Gazette*, make regulations for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such regulation may be made to provide for all matters expressly required or allowed by this Act to be prescribed by the regulations.

(3) All regulations made under this section shall be laid for not less than thirty days before the State Legislature as soon as possible after they are made and shall be subject to rescission by the State Legislature or to such modifications as the State Legislature may make during the session in which they are so laid or the session immediately following.

(4) Any rescission or modification so made by the State Legislature shall be published in the *Official Gazette* and shall there upon take effect.

Power to
amend
Schedule in
certain
circumstances

31. (1) If the Bar Council recommends to the State Government to increase the rate of benefit specified in the Schedule, the State Government may, by notification in the *Official Gazette*, amend the said Schedule so as to increase the rate of benefit as recommended and on the issue of such notification, the said Schedule shall be deemed to be amended accordingly.

(2) Every such notification shall, as soon as possible after it is issued, be laid before the State Legislature.

SCHEDULE

(See sub-section (4) of section 18)

Period of standing 1	Rate of benefit 2
30 Years' standing	Rs. 45000
29 Years' standing	Rs. 43500
28 Years' standing	Rs. 42000
27 Years' standing	Rs. 40500
26 Years' standing	Rs. 39000
25 Years' standing	Rs. 37500

1	2
24 Years' standing	Rs. 36000
23 Years' standing	Rs. 34500
22 Years' standing	Rs. 33000
21 Years' standing	Rs. 31500
20 Years' standing	Rs. 30000
19 Years' standing	Rs. 28500
18 Years' standing	Rs. 27000
17 Years' standing	Rs. 25500
16 Years' standing	Rs. 24000
15 Years' standing	Rs. 22500
14 Years' standing	Rs. 21000
13 Years' standing	Rs. 19500
12 Years' standing	Rs. 18000
11 Years' standing	Rs. 16500
10 Years' standing	Rs. 15000
9 Years' standing	Rs. 13500
8 Years' standing	Rs. 12000
7 Years' standing	Rs. 10500
6 Years' standing	Rs. 9000
Upto 5 Years' standing	Rs. 7500



The Gujarat Government Gazette

EXTRAORDINARY

PUBLISHED BY AUTHORITY

Vol. XXXII] WEDNESDAY, SEPTEMBER 18, 1991/BHADRA 27, 1913

Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART IV

Acts of the Gujarat Legislature and Ordinances promulgated and Regulations made by the Governor.

The following Act of the Gujarat Legislature, having been assented to by the Governor on the 17th September, 1991 is hereby published for general information.

R. H. GORI,

Secretary to the Government of Gujarat,
Legal Department.

GUJARAT ACT NO. 15 OF 1991

(First published, after having received the assent of the Governor in the "Gujarat Government Gazette" on the 18th September, 1991).

AN ACT

further to amend the Gujarat State Guarantees Act, 1963.

It is hereby enacted in the Forty-second Year of the Republic of India as follows :—

1. This Act may be called the Gujarat State Guarantees (Amendment) Act, 1991.

Short title.

Guj. XXII
of 1963.

2. In the Gujarat State Guarantees Act, 1963, in section 2, in sub-section (1), for the letters and figures "Rs. 45,00,00,00,000", the letters and figures "Rs. 60,00,00,00,000" shall be substituted.

Amendment
of section 2
of Guj.
XXII of
1963.



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 Governor on the 17th September, 1991 is hereby published for general information.

R. H. GORI,
 Secretary to the Government of Gujarat,
 Legal Department.

GUJARAT ACT NO. 16 OF 1991

(First published, after having received the assent of the Governor in the
 "Gujarat Government Gazette" on the 18th September, 1991).

AN ACT

*further to amend the Gujarat Legislative Assembly Members (Removal of
 Disqualifications) Act, 1960.*

It is hereby enacted in the Forty-second Year of the Republic of India
 as follows :—

1. (1) This Act may be called the Gujarat Legislative Assembly
 Members (Removal of Disqualifications) (Second Amendment) Act, 1991.

Short title
 and commen-
 cement.

(2) It shall be deemed to have come into force on the 3rd April, 1991.

Amendment
of Schedule
to Guj. I of
1960.

2. In the Gujarat Legislative Assembly Members (Removal of Disqualifications) Act, 1960, in the Schedule,--

Guj.I.
1960.

(1) in entry 14, for the word "member", the word "Director" shall be substituted;

(2) after entry 25, the following entries shall be added, namely :--

"26. The office of Chairman of the Gujarat State Road Transport Corporation established under the Road Transport Corporations Act, 1950.

64 of
1950.

27. The office of Chairman or Director of the Gujarat Dairy Development Corporation Limited.

28. The office of Chairman or Director of the Gujarat State Handloom Development Corporation Limited.

29. The office of Chairman or Director of the Gujarat State Export Corporation Limited.

30. The office of Chairman or Director of the Gujarat State Warehousing Corporation established under the Warehousing Corporations Act, 1962."

58 of
1962.

Repeal and
savings.

3. (1) The Gujarat Legislative Assembly Members (Removal of Disqualifications) (Amendment) Ordinance, 1991 is hereby repealed.

Guj. Ord.
1 of 1991.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act as amended by the said Ordinance shall be deemed to have been done or taken under the principal Act as amended by this Act.



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P A R T I V

**Acts of the Gujarat Legislature and Ordinances promulgated and
 Regulations made by the Governor.**

The following Act of the Gujarat Legislature, having been assented to by the
 President on the 8th October, 1991 is hereby published for general information.

R. H. GORI,
 Secretary to the Government of Gujarat,
 Legal Department.

GUJARAT ACT NO. 17 OF 1991.

(First published, after having received the assent of the President in the
 "Gujarat Government Gazette" on the 10th October, 1991).

AN ACT

further to amend the Bombay Land Requisition Act, 1948.

It is hereby enacted in the Forty-second Year of the Republic of India
 as follows :—

1. (1) This Act may be called the Bombay Land Requisition (Gujarat
 Amendment) Act, 1991.

(2) It shall be deemed to have come into force on the 31st July, 1991.

2. In the Bombay Land Requisition Act, 1948 (hereinafter referred to as
 "the principal Act"), in section 9, in sub-section (1A), for the words "eleven
 years", where they occur at two places, the words "thirteen years" shall
 be substituted.

Am.
 XXXIII
 of 1948.

Short title
 and
 commence-
 ment.

Amendment
 of section 9
 of Bom.
 XXXIII of
 1948.

**Repeal and
Savings.**

3. (1) The Bombay Land Requisition (Gujarat Amendment) Ordinance, 1991 is hereby repealed.

Govt.
Ord. 2
of 1991.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act as amended by the said Ordinance shall be deemed to have been done or taken under the principal Act as amended by this Act.



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PART IV

**Acts of the Gujarat Legislature and Ordinances promulgated and
Regulations made by the Governor.**

FINANCE DEPARTMENT

Sachivalaya, Gandhinagar, Dated the 1st November, 1991.

GUJARAT ORDINANCE NO. 3 OF 1991;

AN ORDINANCE

further to amend the Gujarat Sales Tax Act, 1969;

WHEREAS the Legislative Assembly of the State of Gujarat is not in session ;

AND WHEREAS the Governor of Gujarat is satisfied that circumstances exist which render it necessary for him to take immediate action to amend the Gujarat Sales Tax Act, 1969 ;

Gst. 1 of
1970.

NOW, THEREFORE, in exercise of the powers conferred on him by clause (I) of article 213 of the Constitution, the Governor of Gujarat is hereby pleased to make and promulgate the following Ordinance, namely:—

1. *Short title and commencement.*—(1) This Ordinance may be called the Gujarat Sales Tax (Amendment) Ordinance, 1991.

(2) It shall come into force at once.

Guj. 1 of
1970.

2. *Guj. 1 of 1970 to be temporarily amended.*—During the period of operation of this Ordinance, the Gujarat Sales Tax Act, 1969 (hereinafter referred to as "the principal Act") shall have effect subject to the amendments specified in sections 3 to 5.

3. *Amendment of section 41 of Guj. 1 of 1970.*—In the principal Act, in section 41, to sub-section (3), the following provisos shall be added, namely:—

"Provided that where a notice under this sub-section is not issued to the dealer—

(a) on or before the 31st March, 1992, in relation to any year commencing on any day before the 31st March, 1990, or

(b) within a period of one year from the date by which the last quarterly or, as the case may be, annual return is required to be furnished under sub-section (1) of section 40, in relation to any other year subsequent to the year referred to in clause (a),

the dealer shall be deemed to have been assessed on the basis of and for the year for which quarterly returns or, as the case may be, annual return is furnished by the dealer:

Provided further that nothing in the preceding proviso shall apply—

(a) to a dealer whose turnover of purchases or turnovers of specified sales or turnover of sales during a year exceeds five lakhs rupees or the tax payable in respect of that year exceeds five thousand rupees;

(b) to a dealer who has not made payment of the amount of tax within the time prescribed for its payment under sub-section (1), (2) or (3) of section 47;

(c) to a dealer who has not filed the return within the prescribed time;

(d) to a dealer who makes on or before the 31st March, 1992, or, as the case may be, within a period of one year referred to in clause (b) in the preceding proviso, an application to the Commissioner for being assessed:

Provided also that, in relation to any year commencing on any day before the 31st March, 1990, the Commissioner may, subject to such conditions as may be prescribed, including those relating to condonation of delay in payment of tax or filing of return, allow the deemed assessment in respect of such a dealer."

4. *Amendment of section 45 of Guj. 1 of 1970.*—In the principal Act, in section 45,—

(1) in sub-section (5),—

(a) in clause (a), the figures “19” shall be deleted;

(b) for the words “twenty per cent”, the words “twenty-five per cent” shall be substituted;

(2) for sub-section (6), the following shall be substituted, namely:—

“(6) Where under sub-section (5), a dealer is deemed to have failed to pay the tax to the extent mentioned in the said sub-section, there shall be levied on such dealer a penalty not exceeding one and one-half times the difference referred to in sub-section (5).”;

(3) after sub-section (10), the following sub-section shall be added, namely:—

“(11) This section as amended by section 4 of the Gujarat Sales Tax (Amendment) Ordinance, 1991 shall apply and shall be deemed always to have applied in relation to the liability to pay tax on sale of goods, specified sales and purchases of goods, which have taken place during the period commencing on the 1st April, 1990 and ending immediately before the commencement of the said amending section.”.

Guj. Ord. 3
of 1991.

5. *Amendment of section 47 of Guj. 1 of 1970.*—In the principal Act, in section 47,—

(1) in sub-section (4),—

(a) in clause (a), in sub-clause (ii), for the figures and words “19 or 50, and”, the figures “50” shall be substituted;

(b) in clause (b), after the figures “46”, the word “and” shall be added;

(c) after clause (b), the following clause shall be added, namely:—

“(c) the amount of interest, if any, under sub-section (4A).”;

(2) for sub-section (4A), the following shall be substituted, namely:—

“(4A) (a) Where a dealer does not pay the amount of tax within the time prescribed for its payment under sub-section (1), (2) or (3), then there shall be paid by such dealer for the period commencing on the date of expiry of the aforesaid prescribed time and ending on date of payment of the amount of tax, simple interest at the rate of twenty-four per cent. per annum on the amount of tax not so paid or on any less amount thereof remaining unpaid during such period.

(b) Where the amount of tax assessed or reassessed for any period under section 41 or section 44, subject to revision if any, under section 67, exceeds the amount of tax already paid by a dealer for that period, there shall be paid by such dealer, for the period commencing from the date of expiry of the time prescribed for payment of tax under sub-section (1), (2) or (3) and ending on date of order of assessment, reassessment or, as the case may be, revision, simple interest at the rate of twenty-four per cent. per annum on the amount of tax not so paid or on any less amount thereof remaining unpaid during such period.

(c) Where a dealer does not pay the amount of tax falling under sub-clause (vi) of clause (a) of sub-section (4), the amount of penalty falling under clause (b) of that sub-section and the amount of interest falling under clause (c) of that sub-section and specified in the notice issued under that sub-section on or before the date specified in such notice, then there shall be paid by such dealer for the period commencing on the specified date and ending on the date of payment, simple interest at the rate of twenty-four per cent. per annum on the amounts not so paid:

Provided that no interest shall be payable under clause (b),—

(i) in the case where dealer has furnished the returns or declarations in accordance with the provisions of sub-section (1) of section 40 and made payment of the amount of tax in accordance with the provisions of sub-section (1), (2) or (3) and the difference between the amount of tax assessed or reassessed for any period and the amount of tax so paid for such period does not exceed ten per cent. of the amount of tax so paid by the dealer;

(ii) in the case where assessment proceedings are stayed under the first proviso to sub-section (1) of section 42, in respect of the period of such stay;

(iii) in the case where any assessment is kept pending in accordance with a general or special order of the State Government or the Commissioner, in respect of the period for which the assessment is kept pending;

(iv) in the case where on account of an order passed under section 67 an additional amount of tax becomes payable by a dealer, on such additional amount of tax for the period commencing on the date of order of assessment and ending on the date of the order so passed.”

(3) after sub-section (5), the following sub-section shall be added, namely:—

“(6) This section as amended by section 5 of the Gujarat Sales Tax (Amendment) Ordinance, 1991 shall apply and shall be deemed always to have applied in relation to the liability to pay tax on sales of goods, specified sales and purchases of goods which have taken place during the period commencing on the 1st April, 1990 and ending immediately before the commencement of the said section.”

STATEMENT

The State Government had appointed a Study Team to recommend measures to simplify and rationalise the Sales Tax Law and its procedures. The report presented by the Study Team *inter-alia* recommended amendments relating to interest on delayed payment of tax and deemed assessment. The said recommendations were considered by the Government. After careful consideration of the said report, a Bill called the Gujarat Sales Tax (Second Amendment) Bill, 1991 (Guj. Bill No. 38 of 1991) was published for being introduced in the last session of Gujarat Legislative Assembly; but it could not be taken up by the House for want of time. The said Bill contained some of the amendments in the Gujarat Sales Tax Act, 1969 in pursuance of the recommendations of the Study Team.

It has been represented to the Government that the operation of the existing provisions regarding interest causes hardship to the dealers. The Study Team had also recommended that the Government should take steps immediately to implement recommendations regarding the interest pending the implementation of other recommendations of the Study Team. This suggestion has been accepted by the State Government. The amendments regarding penalty, interest and deemed assessments being of an urgent nature, it is considered necessary to amend the Act.

The existing section 45 of the Act provides for a penalty at the rate of twenty-four per cent. per annum in cases where the difference between the tax paid along with the return and tax payable as per assessment or reassessment exceeds twenty per cent. of the amount of the tax paid. In order to make the provision regarding penalty more stringent, it is considered necessary to provide for the penalty upto a maximum of one and one-half times of the differences between the amount paid by the dealer and the amount assessed or reassessed. The penalty will be leviable where the said difference is more than twenty-five per cent. instead of twenty per cent. at present, and it will be over and above the interest payable under the Act.

Under the existing sub-section (4-A) of section 47, a dealer is liable to pay interest at the rate of twenty-four per cent. per annum on the whole amount of tax remaining unpaid for the entire period of such non-payment. Where a penalty is levied on such non-payment of tax, the interest cannot be charged. It is, considered necessary to provide relief in the interest liability in the following cases which do not involve deliberate defaults. :

(i) where the difference between the amount of tax assessed or reassessed for any period and the amount of tax paid for such period does not exceed ten per cent. of the amount of tax so paid by the dealer;

(ii) for the period of stay granted under the first proviso to sub-section(1) of section 42;

(iii) for the period for which assessment is kept pending by the State Government or the Commissioner; and

(iv) where additional amount of tax becomes payable due to revision under section 67, the period commencing on the date of order of assessment and ending on the date of order of revision under section 67.

The interest shall be payable on the amounts unpaid towards tax, penalty and interest.

It is also considered necessary to make provision for deemed assessments in the Act with a view to clear the backlog of, and to speed up, pending assessment cases of those dealers whose tax liability does not exceed rupees five thousand and the turnover does not exceed rupees five lakhs in a year, where such a dealer does not receive notice within a period of one year from the date of the last annual return and if he has made the payment of tax and filed return in time, he shall be deemed to have been assessed on basis of the returns furnished by him. In respect of the assessments in relation to and year commencing before 31st March, 1990, the Commissioner of Sales Tax has been empowered to allow such deemed assessment after condoning the delay, if any, in either payment of tax or filing of return within the prescribed period.

As the Gujarat Legislative Assembly is not in session, this Ordinance is promulgated to amend the said Act to achieve the aforesaid objects.

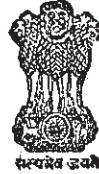
Gandhinagar,
Dated the 30th October, 1991.

SARUP SINGH,
Governor of Gujarat.

By order and in the name of Governor of Gujarat,

S. SUNDAR,
Additional Chief Secretary to Government.

Government Central Press, Gandhinagar.



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P A R T I V

**Acts of the Gujarat Legislature and Ordinances promulgated and
Regulations made by the Governor.**

LEGAL DEPARTMENT

Sachivalaya, Gandhinagar, Dated the 5th December, 1991.

GUJARAT ORDINANCE NO. 4 OF 1991.

AN ORDINANCE

*to provide for the constitution of a Tribunal to arbitrate in disputes arising
from works contracts to which the State Government or a public under-
taking is a party and to provide for matters connected therewith.*

WHEREAS the Legislative Assembly of the State of Gujarat is not in session;

AND WHEREAS the Governor of Gujarat is satisfied that circumstances exist
which render it necessary for him to take immediate action to provide for
constitution of a Tribunal to arbitrate in disputes arising from works contracts
to which the State Government or a public undertaking is a party and to provide
for matters connected therewith;

AND WHEREAS instructions of the President under the proviso to clause (1) of article 213 of the Constitution have been obtained;

NOW, THEREFORE, in exercise of the powers conferred on him by clause (1) of article 213 of the Constitution, the Governor of Gujarat is hereby pleased to make and promulgate the following Ordinance, namely :—

CHAPTER I

PRELIMINARY

1. *Short title, extent and commencement.*—(1) This Ordinance may be called the Gujarat Public Works Contracts Disputes Arbitration Tribunal Ordinance, 1991.

(2) It extends to the whole of the State of Gujarat.

(3) This section shall come into force at one and the remaining provisions of this Ordinance shall come into force on such date as the State Government may, by notification in the *Official Gazette*, appoint.

2. *Definitions.*—(1) In this Ordinance, unless the context otherwise require,—

(a) “Arbitration Act” means the Arbitration Act, 1940;

X of 1940.

(b) “Arbitration clause” means a clause in the works contract to submit the present or future difference to arbitration;

(c) “Bench” means a Bench of the Tribunal;

(d) “Chairman” means the Chairman of the Tribunal;

(e) “Dispute” means any difference relating to any claim valued at any amount equal to or exceeding fifty thousand rupees, arising out of the execution or non-execution of the whole or part of a works contract;

(f) “Member” means a member of the Tribunal and includes the Chairman;

(g) “Party” means a party to a works contract and includes its successors, executors, administrators or assignees;

(h) “Prescribed” means prescribed by rules made under section 20;

(i) “Public undertaking” means—

(i) any company as defined in section 3 of the Companies Act, 1956 in 1 of 1956. which not less than fifty-one per cent. of the paid up share capital is held by the State Government or any company which is a subsidiary (within the meaning of that Act) of the first mentioned company.

1 of 1956.

(ii) any corporation (not being a company as defined in section 3 of the Companies Act, 1956 or a local authority) established by or under a Central Act or a State Act and owned or controlled by the State Government;

(iii) such class of local authorities as the State Government may, by notification in the *Official Gazette*, specify;

(j) "Tribunal" means the Gujarat Public Works Contract Disputes Arbitration Tribunal constituted under section 3;

(k) "Works contract" means a contract made by the State Government or the public undertaking with any other person for the execution of any of its works relating to construction, repairs or maintenance of any building or superstructure, dam, weir, canal, reservoir, tank, lake, road, well, bridge, culvert, factory or work shop or of such other work of the State Government or, as the case may be, of the public undertaking, as the State Government may, by notification in the *Official Gazette* specify, and includes—

(i) a contract made for the supply of goods relating to the execution of any of such works,

(ii) a contract made by the Central Stores Purchase Organisation of the State Government for purchase or sale of goods,

(2) Words and expressions used and not defined in this Ordinance but defined in the Arbitration Act, shall have the meanings assigned to them in the Arbitration Act.

CHAPTER II

CONSTITUTION OF TRIBUNAL

3. *Establishment and constitution of Tribunal.*—(1) The State Government shall, by notification in the *Official Gazette*, establish a Tribunal to be called the Gujarat Public Works Contract Disputes Arbitration Tribunal, to exercise the jurisdiction, powers and authority conferred on it by or under this Ordinance.

(2) The Tribunal shall consist of the Chairman and such number of other members as may be appointed by the State Government.

(3) No person shall be qualified for appointment—

(a) as the Chairman, unless he is, or has been, a Judge of the High Court, and

(b) as a member of the Tribunal, unless he—

(i) is, or has been, a District Judge, for at least five years, or

(ii) is, or has been, a Secretary to the Government of Gujarat for at least three years, or

(iii) is, or has been, a Chief Engineer of the Government of Gujarat for at least three years.

4. *Terms and conditions of service of Chairman and other members of Tribunal.*—(1) The Chairman and a member of the Tribunal shall hold office for a term of three years from the date on which he assumes his office or until he attains,—

(a) in the case of the Chairman, the age of sixty-five years; and

(b) in the case of any other member, the age of sixty-two years, whichever is earlier.

(2) The salaries and allowances payable to, and other terms and conditions of service of the Chairman and other members shall be such as may be prescribed:

Provided that neither the salary and allowances nor the other terms and conditions of service of the Chairman or other members shall be varied to his disadvantage after his appointment.

(3) (a) The Chairman or other member may, by notice in writing under his hand addressed to the State Government, resign his office.

(b) The Chairman or any other member shall not be removed from his office before the expiry of the term of his office except by an order of the State Government on the ground of proved misbehaviour or incapacity after an inquiry made by the Chief Justice of the High Court in which such Chairman or other member has been informed of the charges against him and given a reasonable opportunity of being heard in respect of those charges.

(c) The inquiry under clause (b) shall be made in such manner as may be prescribed.

5. *Vacancy and temporary absence.*—(1) If any vacancy occurs by reason of the death, resignation or expiry of term of appointment, or removal of the Chairman or other member, or for any other cause whatsoever, such vacancy shall be filled in by appointment of a duly qualified person.

(2) If any member becomes, by reason of illness or other infirmity, temporarily incapable of performing the duties of his office, the State Government may appoint some other duly qualified person to discharge his duties for any period not exceeding six months at a time and the person so appointed shall during that period have the same powers as the person in whose place he is appointed.

(3) The Tribunal shall not be deemed to be invalidly constituted merely by reason of any vacancy or temporary absence referred to in sub-section (1) of (2).

6. *Staff of Tribunal.*—(1) The Tribunal may, with the previous approval of the State Government, appoint such number of officers and servants of the Tribunal as it may think fit.

(2) The salaries and the allowances payable to, and other conditions of service of, the officers and servants of the Tribunal shall be such as may be prescribed.

7. *Headquarters of Tribunal.*—(1) The headquarters of the Tribunal shall be at such place as the State Government may, by an order published in the *Official Gazette*, determine.

(2) Notwithstanding anything contained in sub-section (1), the Tribunal may sit at such other place or places, other than the place at its headquarters, as the Tribunal may, with the approval of the State Government, appoint.

CHAPTER III

REFERENCE TO AND PROCEDURE OF TRIBUNAL

8. *Reference to Tribunal and making of award.*—(1) Where any dispute arises between the parties to the works contract, either party shall, irrespective of whether such works contract contains an arbitration clause or not, refer, within one year from the date when the dispute has arisen, such dispute in writing to the Tribunal for arbitration in such form and accompanied by such documents or other evidence and by such fees, as may be prescribed.

(2) On receipts of a reference under sub-section (1), the Tribunal may, if satisfied after such inquiry as it may deem fit to make, that the requirements under this Ordinance in relation to the reference are complied with, admit such reference and where the Tribunal is not so satisfied it, may reject the reference summarily.

(3) Where the Tribunal admits the reference under sub-section (2), it shall, after recording evidence if necessary, and after perusal of the material on record and on affording an opportunity to the parties to submit their arguments, make an award or an interim award, giving its reasons therefor.

(4) The Tribunal shall use all reasonable dispatch in entering on and proceeding with the reference admitted by it and making the award, and an endeavour shall be made to make an award within four months from the date on which the Tribunal had admitted the reference.

(5) The award including the interim award made by the Tribunal shall, subject to an order, if any, made under section 11 or 12 be final and binding on the parties to the dispute.

(6) An award including an interim award as confirmed or varied by an order, if any, made under section 11 or 12 shall be deemed to be a decree within the meaning of section 2 of the Code of Civil Procedure, 1908 of the principal Court of original jurisdiction within the local limits whereof the award or the interim award has been made and shall be executed accordingly. V of 1908.

9. *Practice and procedure of Tribunal.*—(1) The Tribunal may, with the previous sanction of the State Government, make regulations consistent with the provisions of this Ordinance and the rules made thereunder, for regulating its practice and procedure, including the constitution of Benches, the disposal by the Tribunal or a Bench thereof, of any proceedings before it notwithstanding that in the course thereof there has been a change in the persons sitting as members of the Tribunal or Bench, making of interim award, the right of audience before the Tribunal or a Bench thereof, the levy of any process fee, the award of costs and generally for the effective exercise of its powers and discharge of its functions under this Ordinance.

(2) The regulations made under sub-section (1) shall be published in the *Official Gazette*.

(3) The functions of the Tribunal may be discharged by one or more Benches thereof constituted in accordance with the regulations made under sub-section (1).

(4) If the members of the Tribunal or a Bench thereof are divided, the decision shall be the decision of the majority, if there be a majority, but if the members are equally divided they shall state the point or points on which they differ, and the case shall be referred by the Chairman of the Tribunal for hearing on such point or points to one or more of the other members of the Tribunal, and such point or points shall be decided accordingly to the majority of the members of the Tribunal who heard the case including those who first heard it.

10. *Tribunal to have powers of Court.*—For the purpose of exercising its jurisdiction under this Ordinance, the Tribunal shall have the same powers as are vested in a Civil Court under the Code of Civil Procedure, 1908 in respect of the following matters, namely :— V of 1908.

- (a) summoning and enforcing the attendance of any person and examining him on oath;
- (b) requiring the discovery and production of documents;
- (c) issuing commissions for the examination of witnesses;
- (d) any other matter which may be prescribed.

11. *Review of award of Tribunal.*—(1) The Tribunal may, either on its own motion or on the application of any party aggrieved by the award or the interim award, review the award or interim award made by it and pass in reference thereto such order as it thinks just and proper :

Provided that no such application made by any party shall be entertained, unless the Tribunal is satisfied that there has been the discovery of new and important matter or evidence which after the exercise of due diligence was not within the knowledge of such party or could not be produced by such party at the time when evidence on the basis of which award or interim award made was recorded by it or that there has been some mistake or error apparent on the face of the record, or for any other sufficient reason :

Provided further that, no such award or interim award shall be varied or revised, unless notice has been given to the parties interested to appear and be heard in support of such variation or revision.

(2) An application for review under sub-section (1) by any party aggrieved by the award or interim award shall be made within ninety days from the date of the award or the interim award of the Tribunal.

12. *Revision.*—(1) The High Court may, *suo moto* at any time or on an application made to it within three months from the date on which the award or interim award is made or reviewed under this Ordinance, by any party aggrieved by the award or interim award so made or reviewed, call for the record of any case in which an award or interim award has been made or, as the case may be, reviewed and if the Tribunal appears—

- (a) to have exercised a jurisdiction not vested in it by law, or
- (b) to have failed to exercise a jurisdiction so vested, or
- (c) to have acted in the exercise of its jurisdiction illegally or with material irregularity,

the High Court may make such order in the case as it thinks fit.

V of 1908. (2) For the purpose of exercising its powers of revision under this section, the High Court shall have the same powers as it has, and as far as may be, follow the same procedure as it follows, under the Code of Civil Procedure, 1908 while exercising its powers of revision under section 115 of the Code, and for that purpose the Tribunal shall be deemed to be a Court subordinate to it.

13. *Bar of jurisdiction of Courts.*—(1) Save as otherwise provided by section 12, no Civil Court shall have jurisdiction to deal with or decide any question which the Tribunal is empowered to deal with and decide by or under this Ordinance and no injunction shall be granted by any Civil Court in respect of any action taken or to be taken in pursuance of any power by or under this Ordinance.

(2) No award or interim award or order made or proceedings taken under this Ordinance by the Tribunal shall be called in question in any Civil Court.

CHAPTER IV

MISCELLANEOUS

14. *Proceedings before Tribunal to be judicial proceedings.*—All proceedings before the Tribunal shall be deemed to be judicial proceedings within the meaning of sections 193, 219 and 228 of the Indian Penal Code.

45 of 1860.

15. *Members and staff of Tribunal to be public servants.*—The Chairman and other members and officers and servants of the Tribunal shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

45 of 1860.

16. *Application of sections 4 and 12 of the Limitation Act, 1963.*—In computing the period of limitation laid down in sub-section (1) of section 8, and sub-section (2) of section 11 and sub-section (1) of section 12, the provisions of ~~XXXVI~~ of sections 4 and 12 of the Limitation Act, 1963, shall, so far as may be, apply. 1963.

17. *Extension of period of limitation in certain cases.*—The Tribunal may admit a reference under sub-section (2) of section 8 or entertain an application for review under sub-section (1) of section 11 or for revision under sub-section (1) of section 12 after the period of limitation laid down in sub-section (1) of section 8, sub-section (2) of section 11, or as the case may be, sub-section (1) of section 12 if the party satisfies the Tribunal that the party had sufficient cause for not making the reference or, as the case may be, the application for review or revision within such period.

18. *Protection of action taken in good faith.*—No suit, prosecution or other proceeding shall lie against the State Government or the Chairman or other member or officer or servant of the Tribunal for anything which is in good faith done or intended to be done in pursuance of this Ordinance or any rule or order or regulation made thereunder.

19. *Power to remove difficulties.*—(1) If any difficulty arises in giving effect to the provisions of this Ordinance the State Government may, by order published in the *Official Gazette*, make such provisions, not inconsistent with the provisions of this Ordinance as appear to it to be necessary or expedient for removing the difficulty.

(2) Every order made under this section shall, as soon as may be after it is made, be laid before the State Legislature.

20. *Rules.*—(1) The State Government may, subject to the condition of previous publication, by notification in the *Official Gazette*, make rules for carrying out the purposes of this Ordinance.

(2) Without prejudice to the generality of the foregoing power, such rules may be made for all or any of the following matters, namely :—

(a) the salaries and allowances payable to, and other terms and conditions of service of, the Chairman and other members, under sub-section (2) of section 4;

(b) the manner of inquiry to be made under clause (b) of sub-section (3) of section 4;

(c) the salaries and the allowances payable to, and other conditions of service of, the officers and servants of the Tribunal, under sub-section (2) of section 6;

(d) the forms in which reference shall be made and the documents and other evidence and the fees with which it shall be accompanied, under sub-section (1) of section 8;

(e) any other matter in respect of which the Tribunal may exercise powers of Civil Court under clause (d) of section 10;

(f) any other matter which is to be, or may be, prescribed.

(3) All rules made under this section shall be laid for not less than thirty days before the State Legislature as soon as may be after they are made and shall be subject to rescission or such modifications as the State Legislature may make during the session in which they are so laid or the session immediately following.

(4) Any rescission or modification so made by the State Legislature shall be published in the *Official Gazette*, and shall thereupon take effect.

21. *Arbitration Act to cease to apply.*—The provisions of the Arbitration Act, shall in so far as they are inconsistent with the provisions of this Ordinance, cease to apply to any dispute arising from a works contract and all arbitration proceedings in relation to such dispute before an arbitrator, umpire, court or authority shall stand transferred to the Tribunal.

STATEMENT

At present generally in every works contract entered into with the State Government or a public undertaking there is an arbitration clause by virtue of which every difference or dispute arising out of such contract is referred to a sole arbitrator or arbitrators appointed by the parties to the works contract. As different persons act as arbitrator in different works contracts, there is no uniformity of approach to the disputes resulting in dissimilar decisions. It is, therefore, considered necessary to provide a uniform forum in the form of a Gujarat Public Works Contract Disputes Arbitration Tribunal consisting of a High Court Judge as a Chairman, and District Judges, Secretaries to Government and Chief Engineers as members, for deciding the difference or disputes (involving not less than fifty thousand rupees in value) arising from the works contracts in which the State Government, or a company or body owned or controlled by the State Government or a local authority is a party. In order to ensure that only the Arbitration Tribunal may act as arbitrator, it is also considered necessary to provide compulsory arbitration by such Arbitration Tribunal, in respect of disputes arising out of the works contracts.

As the Gujarat Legislative Assembly is not in session, this Ordinance is promulgated to achieve the aforesaid objects.

Gandhinagar,
Dated the 4th December, 1991.

SARUP SINGH,
Governor of Gujarat.

By order and in the name of the Governor of Gujarat,

B. K. SHAH,
Secretary to Government.

Government Central Press, Gandhinagar.



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Separate paging is given to this Part in order that it may be filed
as a Separate Compilation.

P A R T I V

**Acts of the Gujarat Legislature and Ordinances promulgated and
Regulations made by the Governor.**

HOME DEPARTMENT

Sachivalaya, Gandhinagar, Dated the 5th December, 1991.

GUJARAT ORDINANCE 'NO. 5 OF 1991.

AN ORDINANCE

further to amend the Bombay Motor Vehicles Tax Act, 1958.

WHEREAS the Legislative Assembly of the State of Gujarat is not in session;

AND WHEREAS the Governor of Gujarat is satisfied that circumstances exist which render it necessary for him to take immediate action to amend the Bombay Motor Vehicles Tax Act, 1958;

NOW, THEREFORE, in exercise of the powers conferred on him by clause (1) of article 213 of the Constitution, the Governor of Gujarat is hereby pleased to make and promulgate the following Ordinance, namely:—

22-1

IV-Extra-22-1

**Ben.
LXV of
1958.**

1. *Short title and commencement.*—(1) This Ordinance may be called the Bombay Motor Vehicles Tax (Gujarat Amendment) Ordinance, 1991.

(2) It shall be deemed to have come into force on the 1st April, 1991.

2. *Bom. LXV of 1958 to be temporarily amended.*—During the period of operation of this Ordinance, the Bombay Motor Vehicles Tax Act, 1958 (hereinafter referred to as "the principal Act") shall have effect subject to the amendments specified in sections 3 and 4.

Bom.
LXV of
1958.

3. *Amendment of section 3A of Bom. LXV of 1958.*—In the principal Act, in section 3A,—

(1) in sub-section (1), in the Table, in entry 1, in column 2, for the figures "1800", the figures "1500" shall be substituted;

(2) in sub-section (2), for clause (b), the following clause shall be substituted, namely:—

"(b) The annual payment of tax or the payment of monthly instalment of tax shall be made within such period and in such manner as may be prescribed."

(3) for sub-section (5), the following sub-section shall be substituted, namely:—

"(5) (a) Where the registered owner or any person having possession or control of a designated omnibus who has paid tax under this section proves to the satisfaction of the Taxation Authority that the designated omnibus in respect of which the tax has been paid, has not been used or kept for use for a continuous period of not less than one month, he shall be entitled to the refund of an amount equal to one-twelfth of the annual rate of tax paid in respect of such omnibus for each complete month of the period for which the tax has been paid so however that, except as otherwise provided in clause (b) the total amount of a refund in a year shall not exceed—

(i) three hundred seventy-five rupees per passenger permitted to be carried in the case of an ordinary designated omnibus,

(ii) six hundred seventy-five rupees per passenger permitted to be carried in the case of a luxury or tourist designated omnibus:

Provided that for the purpose of determining the amount of refund under this clause, only such of the period in which a designated omnibus has not been used or kept for use shall be taken into account as comprises of complete months.

(b) Where a registered owner or a person having possession or control of a designated omnibus, who has paid tax under this section proves to the satisfaction of the State Government or such officer not below the rank of the Director of Transport, Gujarat State, as may by notification in the *Official Gazette*, be authorised in this behalf by the State Government

that the designated omnibus in respect of which the tax has been paid, has for reasons beyond the control of such owner or person not been used or kept for the use for a continuous period of not less than one month but exceeding three months in a year, he shall be entitled to the refund of an amount equal to one-twelfth of the annual rate of the tax paid in respect of such omnibus for each complete month of the period of which the tax has been paid:

Provided that for the purpose of determining the amount of refund under this clause only such of the period in which a designated omnibus has not been used or kept for use shall be taken into account as comprises of complete months."

4. *Amendment of section 23 of Bom. LXV of 1958.*—In the principal Act, in section 23, in sub-section (2),—

(1) for clause (a), the following clause shall be substituted, namely:—

"(a) to prescribe the manner of certifying under sub-section (2) of section 3;"

(2) in clause (b), for the words, brackets and figures "under sub-section (3) of section 3A", the words, brackets and figures "under sub-sections (2) and (3) of section 3A" shall be substituted.

STATEMENT

In view of the representation of tourist vehicles operators that the rate of tax levied under sub-section (1) of section 3A and the provision for refund of tax limited to a continuous period of not less than two months of non-use of the designated omnibus under sub-section (5) of the said section 3A causes hardship to them, it is proposed to amend the said section 3A so as to reduce the annual rate of tax levied on ordinary designated omnibuses from Rs. 1800/- to Rs. 1500/- and the said minimum period of two months of non-use to one month.

Having regard to the commercial use of omnibuses exclusively used as contract carriages in normal circumstances, it is generally uneconomic for the registered owners of such omnibuses to put such omnibuses to non-use for a very long time. Cases have come to the notice of the Government indicating that many a time such omnibuses which purported to have been

put to non-use were operated clandestinely resulting in evasion of the tax and consequent loss of revenue to the Government. In order, therefore to prevent evasion of tax, it is considered necessary to make a provision to restrict the refund of the tax to a total period of three months of non-use in a financial year, in normal circumstances. However, in order to meet with the genuine cases where such an omnibus may have to be put to non-use for a period exceeding three months on account of reasons beyond the control of the registered owner, provision is made for refund of tax for non-use of the omnibus for a period exceeding three months. For this purpose, a Bill called the Bombay Motor Vehicles Tax (Gujarat Amendment) Bill, 1991 (Gujarat Bill No. 37 of 1991) was published with a view to introduce in the last session of the Gujarat Legislative Assembly but could not be taken up by the House for want of time.

As the Gujarat Legislative Assembly is not in session, this Ordinance is promulgated to amend the said Act to achieve the aforesaid objects.

SARUP SINGH,

Gandhinagar,
Dated the 4th December, 1991.

Governor of Gujarat.

By order and in the name of the Governor of Gujarat,

T. R. AGNANI,
Additional Chief Secretary to Government.

Government Central Press, Gandhinagar.